

No. 15051

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United States  
Court of Appeals  
for the Ninth Circuit

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NATIONAL LABOR RELATIONS BOARD,  
Petitioner,  
vs.  
SWIFT & COMPANY,  
Respondent.

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Transcript of Record

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Petition for Enforcement of an Order of the  
National Labor Relations Board

FILED

MAY 24 1956



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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## APPEARANCES

MARCEL MALLET-PREVOST

Assistant General Counsel, National Labor Re-  
lations Board,  
Washington, D. C.,

For Petitioner, National Labor Rela-  
tions Board.

MOSES LASKY,

BAILEY LANG,

MARION B. PLANT,

111 Sutter St.,  
San Francisco 4, Calif.,

For Respondent, Swift & Co.





United States of America  
National Labor Relations Board

PETITION

When this Petition is filed by a labor organization or by an individual or group acting in its behalf, the Petition will not be processed unless the labor organization and any national or international of which it is an affiliate or constituent unit have complied with section 9 (f), (g), and (h) of the National Labor Relations Act.

Case No.: 20-RC-2695.

Date Filed: 12/6/54.

Compliance Status Checked By: E. L.

Instructions.—

Submit an original and four (4) copies of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

If more space is required for any one item, attach additional sheets, numbering item accordingly.

Attachments Required.—

Except when this Petition is filed by an employer under section 9 (c) (1) (B) of the act, there must be submitted with the Petition proof of interest in the form of dated authorization or membership application cards, or other documentary evidence signed by employees, together with an alphabetical list of their names.

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority:

1. Purpose of this Petition:

RC—Certification of Representatives (Individual, Group, Labor Organization).—A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner, and Petitioner desires to be certified as representative of the employees for purposes of collective bargaining, pursuant to section 9 (a) and (c) of the act.

\* \* \*

2. Name of Employer:

Swift & Company.

Employer Representative to Contact: Howard Thorne, Supt.

Phone No.: PL 6-1500.

3. Address of Establishment Involved:

East Grand Ave., South San Francisco, Calif.

4a. Type of Establishment (Factory, mine, Wholesaler, etc.):

Slaughtering and Meat Packing.

4b. Identify Principal Product or Service:

Meat Products.

5. Description of Unit Involved:

Included—Plant Clerks and Standard Checkers, excluding all Production employees, Supervisory employees, Office Clerical employees, Plant Protection Force, Steam, Power and Refrigeration employees, Mechanical and Maintenance gangs, Coopers and Truck Drivers.

6a. Number of Employees in Unit:

16.

6b. Is This Petition Supported by 30% or More of the Employees in the Unit?:

Yes.

(If you have checked box 1 A (RC) above, check and complete Either item 7a or 7b, whichever is applicable.)

7a. Request for recognition as Bargaining Representative was made on November 23, 1954, and Employer declined recognition on or about December 3, 1954.

\* \* \*

11. Parties or Organizations Other Than Petitioner Which Have Claimed Recognition as Representatives, and Other Unions Interested in the Employees Described in Item 5 Above:

None.

\* \* \*

12. If you have checked box 1 A (RC) above, list locals or other affiliates of Petitioner having or soliciting members among the employees in the

unit involved; or which will serve such employees in the event the Petitioner is certified as their representative. (If none, so state.)

None.

I declare that I have read the above petition and that the statements therein are true to the best of my knowledge and belief.

AMALGAMATED MEAT CUTTERS AND  
BUTCHER WORKMEN OF NORTH AMER-  
ICA—A. F. of L. LOCAL 508,

By /s/ M. GUERRA,  
Secretary-Treasurer.

Address:

4442 Third Street,  
San Francisco 24, Calif.,  
VAlencia 4-4451.

Willfully False Statement on This Petition Can  
Be Punished By Fine and Imprisonment. (U. S.  
Code, Title 18, Section 1001.)

Received in evidence as Board's Exhibit No. 1-A  
January 19, 1955.

United States of America  
Before the National Labor Relations Board  
Case No. 20-RC-2695

In the Matter of

SWIFT & COMPANY,

Employer,

and

LOCAL 508, AMALGAMATED MEAT CUTTERS  
AND BUTCHER WORKKMEN OF NORTH  
AMERICA, AFL,

Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organization(s) named below claim(s) to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All plant clerks and standards checkers at the Employer's South San Francisco, California, plant, excluding all other employees, guards and supervisors as defined in the Act.<sup>1</sup>

#### Direction of Election

As part of the investigation to ascertain representatives for the purposes of collective bargaining

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<sup>1</sup>The Petitioner seeks to represent a residual unit of 12 plant clerks and 5 standards checkers. The Employer requests dismissal of the petition upon the ground that the individuals sought to be represented are either confidential employees, managerial representatives, or supervisors.

The plant clerks work with foremen in plant department offices. They maintain department records pertaining to costs, production time spent by employees in production processes, and inventory. When necessary, they also compile data for use by the foremen in processing grievances. In addition, they tell employees where to place and when to move certain products in the course of processing, and they take charge of the department for short intervals when a foreman is absent. However, they have no power to hire or discharge or effectively



with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Section 102.61 and 102.62 of the National Labor Relations Board's Rules and Regulations, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the payroll period immediately preceding the date of this Direction of Election, including employees who did not work during said payroll period because they were ill or on vacation or temporarily laid off, and employees in the military

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recommend such action, nor do they handle grievances. Their assignment of work is routine.

The standards checkers also perform most of their work in the plant department offices where they select and apply predetermined standards and variables to department production data to obtain a basis from which comptometer operators can compute incentive pay. Their figures are also used in connection with grievances involving incentive pay. The Employer's plant superintendent stated that their functions could not be defined as being supervisory.

On the basis of the above facts and the record as a whole, we find that the plant clerks and standards checkers are not confidential employees, members of management or supervisors. *Wilson & Co., Inc.*, 97 NLRB 1388 at 1394; *Foster Wheeler Corporation*, 94 NLRB 211 at 212; *Douglas Eaton Manufacturing Company*, 110 NLRB No. 26 at 2. Accordingly, we find that the unit proposed by the Petitioner is appropriate and deny the Employer's request to dismiss the petition.

services of the United States who appear in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether (or not) they desire to be represented, for purposes of collective bargaining, by:

Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL.

Dated: March 3, 1955.

GUY FARMER,  
Chairman;

ABE MURDOCK,  
Member;

IVAR H. PETERSON,  
Member,

[Seal] NATIONAL LABOR  
RELATIONS BOARD.

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[Title of Board and Cause.]

### TALLY OF BALLOTS

Date issued: March 18, 1955.

Type of election: Board ordered.

The undersigned agent of the Regional Director certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:



1. Approximate number of eligible voters .....	16
2. Void ballots .....	0
3. Votes cast for Petitioner .....	11
4. Votes cast for .....	
5. Votes cast for .....	
6. Votes cast against participating labor organization .....	5
7. Valid votes counted (sum of 3, 4, 5, and 6) .....	16
8. Challenged ballots .....	0
9. Valid votes counted plus challenged ballots (sum of 7 and 8) ..	16
10. Challenges are not sufficient in number to affect the results of the election.	
11. A majority of the valid votes has been cast for: Petitioner.	

For the Regional Director:

/s/ M. C. DEMPSTER.

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For Petitioner:

/s/ B. McCaffrey.

For Company:

/s/ F. S. Sigler.

[Title of Board and Cause.]

### CERTIFICATION OF REPRESENTATIVES

An election having been conducted in the above matter by the undersigned Regional Director of the National Labor Relations Board pursuant to the Board's direction, and in accordance with the Rules and Regulations of the Board, and it appearing from the Tally of Ballots that a collective bargaining representative has been selected, and no objections having been filed by any of the parties within the time provided therefor.

Pursuant to the authority vested in the undersigned by the National Labor Relations Board,

It Is Hereby Certified that Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL

has been designated and selected by a majority of the employees of the above-named Employer, in the unit heretofore found by the Board to be appropriate, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act as amended, the said organization is the exclusive representative of all the employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

Signed at San Francisco, California on the 28th day of March, 1955.

On behalf of:

[Seal] NATIONAL LABOR  
RELATIONS BOARD,

/s/ GERALD A. BROWN,

Regional Director for 20th Region, National Labor  
Relations Board.

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[Title of Board and Cause.]

### STIPULATION

It Is Hereby Stipulated and Agreed by and between Swift & Company, by its officers and attorneys, herein called Respondent, Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, by its officers and attorneys, herein called the Union, and Robert V. Magor, Counsel for the General Counsel of the National Labor Relations Board, Twentieth Region, that:

#### I.

Upon a charge duly filed by the Union on the 13th day of June, 1955, and served on Respondent on the 14th day of June, 1955, receipt of which charge is hereby acknowledged by Respondent, the General Counsel of the National Labor Relations Board, on behalf of the National Labor Relations Board, herein called the Board, by the Regional Director for the Twentieth Region, herein called the Regional Director and the Regional Office, respectively, acting pursuant to authority granted in Sec-

tion 10(b) of the National Labor Relations Act, as amended, 29 U.S.C.A. 141, et seq., (Supp. July, 1947), herein called the Act, and pursuant to Section 102.15 of the Board's Rules and Regulations, issued a complaint and notice of hearing thereon, dated August 3, 1955, against the Respondent. True copies of the aforesaid charge, affidavit of service of said charge, complaint, and notice of hearing thereon were duly served by registered mail upon the Respondent and the Union. The parties hereto acknowledge service of such documents.

## II.

a. Respondent is, and at times material herein, has been an Illinois corporation engaged in the slaughtering, handling, and dressing of livestock, and the sale of meat and related products, with its principal office in Chicago, Illinois, and branch plants and offices located throughout the United States. The only operation of Respondent involved herein is its meat packing plant at South San Francisco, California, herein called the South San Francisco plant.

b. During the twelve-month period ending December 31, 1954, Respondent purchased and received at its South San Francisco plant products and materials valued in excess of \$10,000,000, of which amount approximately 56% was received directly in the flow of commerce from places and points located outside the State of California. During the same period above mentioned, Respondent sold its

products from its South San Francisco plant valued in excess of \$10,000,000, of which amount approximately 20% was directly sold and shipped from the South San Francisco plant to places and points located outside the State of California.

### III.

Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, referred to herein as the Union, is, and at all times material herein, has been, a labor organization within the meaning of Section 2(5) of the Act.

### IV.

This stipulation, together with the charge, affidavit of service of the charge, complaint, notice of hearing, Respondent's answer, and the official reporter's transcripts in Swift & Company, Case No. 20-RC-2695, referred to in Paragraph VIII below, shall constitute the entire record herein and shall be filed with the Board.

### V.

a. All parties hereto expressly waive hearing, the issuance of intermediate report and recommended order by a Trial Examiner, the filing of exceptions and oral argument before the Board, and expressly agree that the record as set forth in paragraph IV, above, may be submitted to the Board, and that on the basis thereof the Board may make findings of fact, conclusions of law, and issue an appropriate decision and order, which shall have



the same force and effect as if made after full hearing and presentation of evidence.

b. All the parties hereto further agree that immediately upon the execution of this stipulation the Regional Director shall file the record as described in paragraph IV, above, with the Board in Washington, D. C., and that each party hereto shall have twenty (20) days from the date of such filing to submit to the Board briefs in support of its respective position. Such briefs shall conform to the procedures set forth in the Rules and Regulations of the Board, Series 6, as amended, Sec. 102.46.

## VI.

On December 6, 1954, pursuant to Section 9(a) and (c) of the Act, the Union filed with the Regional Office a Petition for Certification of Representatives for the below-mentioned unit of employees at the South San Francisco plant of the Respondent; said petition was docketed by the Regional Office as Case No. 20-RC-2695:

Plant clerks and standards checkers, excluding all production employees, supervisory employees, office clerical employees, plant protection force, steam, power and refrigeration employees, mechanical and maintenance gangs, coopers and truck drivers.

## VII.

On January 19, 1955, pursuant to appropriate notice, a hearing was held, pursuant to Section

9(c) of the Act, on the petition of the Union, in the matter of Swift & Company, Case No. 20-RC-2695, before a hearing officer of the Board, at San Francisco, California, at which time the Union and Respondent were present and gave testimony.

### VIII.

It is hereby stipulated and agreed, by the parties hereto, that the official reporter's transcript of the hearing in the matter of Swift & Company, Case No. 20-RC-2695, and all exhibits introduced in said proceeding, described in paragraph VI, above, and filed with the Board, be made a part of the record in the present proceeding.

### IX.

On March 3, 1955, the Board, acting pursuant to the provisions of Section 9 of the Act, issued its Decision and Direction of Election in the matter of Swift & Company, Case No. 20-RC-2695, in which it found the below-named unit of employees at Respondent's South San Francisco plant to be a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, and did direct a secret ballot election among said employees:

All plant clerks and standards checkers at the Employer's South San Francisco, California, plant, excluding all other employees, guards and supervisors as defined in the Act.

## X.

On March 18, 1955, pursuant to the Board's Decision and Direction of Election, a secret ballot election was conducted by the Regional Office among the employees of Respondent at its South San Francisco plant, in the unit found appropriate by the Board, as described in paragraph IX, above, at which election a majority of the employees in said unit designated and selected the Union as their representative for the purposes of collective bargaining with Respondent. The results of said election were made known to Respondent on this date.

## XI.

On March 28, 1955, the Regional Director, on behalf of the Board, acting pursuant to Section 9(a) of the Act, certified the Union as the exclusive representative of all the employees in the unit described in paragraph IX, above, at the South San Francisco plant of Respondent, for the purposes of collective bargaining with Respondent with respect to rates of pay, wages, hours of employment, and other conditions of employment.

## XII.

On or about March 23, 1955, and at various times thereafter, the Union has requested Respondent to bargain collectively with it as the exclusive representative of all the employees in the appropriate unit described in paragraph IX, above, with respect to rates of pay, wages, hours of employment, and other conditions of employment. A true copy of a



letter dated March 23, 1955, from the Union to Respondent, is attached hereto and made a part hereof, and marked Appendix A.

XIII.

Since April 27, 1955, and at all times thereafter, to and including the date hereof, Respondent has refused to bargain collectively with the Union as the exclusive representative of all of the employees in the appropriate unit described in paragraph IX, above, with respect to rates of pay, wages, hours of employment, and other conditions of employment. A true copy of a letter dated April 27, 1955, from Respondent to the Union, stating Respondent's position, is attached hereto and made a part hereof, and marked Appendix B.

XIV.

This stipulation contains the entire agreement between the parties, there being no agreement of any kind, verbal or otherwise, which varies, alters or adds to this stipulation.

Signed this 16th day of August, 1955, at South San Francisco, Calif.

SWIFT & COMPANY,

By /s/ F. S. SIGLER,

Plant Supt.,

E. Grand Ave.,

So. San Francisco, Calif.

Signed this 18th day of August, 1955, at Chicago, Illinois.

LOCAL 508, AMALGAMATED MEAT CUTTERS  
AND BUTCHER WORKMEN OF NORTH  
AMERICA, AFL,

By /s/ LESTER ASHER,

Attorney,

130 North Wells Street,  
Chicago 6, Illinois.

Signed this 19th day of August, 1955, at San Francisco, California.

/s/ ROBERT V. MAGOR,

Counsel for General Counsel, National Labor Relations Board, Twentieth Region,  
630 Sansome Street,  
San Francisco 11, California.

(Copy)

Appendix A

March 23, 1955.

Mr. K. R. Richardson,  
General Superintendent,  
Swift & Company,  
Union Stock Yards,  
Chicago 9, Illinois.

Dear Mr. Richardson:

The plant clerks and standard checkers employed in your South San Francisco plant have selected

our Local 508 as the exclusive collective bargaining agent. The National Labor Relations Board will, undoubtedly, certify our Local Union in a few days.

Will you please furnish us with a complete list of job classifications and wage rates affecting this group. We should also like to have you furnish us with a payroll record indicating the basic weekly wage presently being paid to each of the employees within that bargaining unit. Also, please advise us what benefits are presently being enjoyed by this group which are different from those enjoyed by the production employees in the South San Francisco plant as provided for in our Master Agreement.

It is our present thought that a separate contract should be executed covering these employees, and that it should be separate and apart from the Master Agreement. However, we reserve advising you with any finality until we have received the information requested herein and have had an opportunity to discuss them with the representatives of this group.

Yours very truly,

RESEARCH DIRECTOR.

DD/a

(Copy)

Appendix B

April 27, 1955.

Mr. David Dolnick,  
Director of Research,  
Amalgamated Meat Cutters and Butcher Workmen  
of North America,  
2800 Sheridan Road,  
Chicago 14, Illinois.

Dear Mr. Dolnick:

In reply to your letter of March 23, 1955:

Swift & Company has previously taken the position that the National Labor Relations Board should dismiss the petition filed by Local #508, AMC&BW-AFL, to represent the plant clerks and standards checkers at the Swift & Company, South San Francisco, California, plant. Our request to dismiss the petition was denied by the National Labor Relations Board. The Board thereupon directed that an election be conducted.

The Company is still of the opinion that the petition should have been dismissed. Accordingly, if Local #508, AMC&BW-AFL, decides to pursue the matter further, then it is our intention to plead at the first opportunity that the petition by Local #508 should have been dismissed.

The Company respectfully refuses to bargain with Local #508, AMC&BW-AFL, as the exclusive representative of the plant clerks and standards check-

ers at the Swift & Company, South San Francisco, California, plant.

Yours very truly,

SWIFT & COMPANY,

/s/ K. M. RICHARDSON, JBC.

Gen. Supt's. Ofc.

JLP:LS

Received August 19, 1955.

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United States of America  
Before the National Labor Relations Board  
Case No. 20-CA-1110

SWIFT & COMPANY,

and

LOCAL 508, AMALGAMATED MEAT CUTTERS  
AND BUTCHER WORKMEN OF NORTH  
AMERICA, AFL.

Decision and Order

Upon a charge duly filed on June 13, 1955, by Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, herein called the Union, the General Counsel of the National Labor Relations Board, herein called the General Counsel, by the Acting Regional Director for the Twentieth Region, issued a complaint dated August

3, 1955, against Swift & Company, herein called the Respondent, alleging that the Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (a) (5) and (1) and Section 2 (6) and (7) of the Act. Copies of the complaint, the charge and notice of hearing were duly served upon the Respondent and the Union.

With respect to the unfair labor practices, the complaint alleged in substance that since on or about April 27, 1955, the Respondent has refused to bargain collectively with the Union as the exclusive representative of all employees in the appropriate unit for which the Union was certified as bargaining representative on March 28, 1955.<sup>1</sup> On or about August 10, 1955, the Respondent filed an answer to the complaint admitting the refusal to bargain, but contending that the petition in Case No. 20-RC-2695 should have been dismissed because the individuals sought to be represented by the Union did not constitute an appropriate unit.

Thereafter, on or about August 19, 1955, all parties entered into a stipulation setting forth an agreed statement of facts. The stipulation provides that the parties waive their rights to a hearing, to the issuance of a Trial Examiner's Intermediate Report and Recommended Order and to the filing

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<sup>1</sup>An election was held on March 18, 1955, pursuant to the Board's Decision and Direction of Election in Swift & Company, 20-RC-2695, not reported in the printed volumes of Board Decisions.



of exceptions and oral argument before the Board. It also provides that the entire record in the proceeding shall consist of the stipulation, the charge, the complaint, the notice of hearing, the Respondent's answer, the affidavits and proof of service of the foregoing documents, and the official reporter's transcript in Swift & Company, Case No. 20-RC-2695, and all exhibits introduced in said proceeding. The stipulation further provides that, upon such stipulation and the record as therein provided, the Board may make findings of fact and conclusions of law, and may issue an appropriate Decision and Order which shall have the same force and effect as if made after full hearing and presentation of evidence.

The aforesaid stipulation is hereby approved and accepted and made a part of the record in this case. In accordance with Section 102.45 of National Labor Relations Board Rules and Regulations—Series 6, as amended, this proceeding was duly transferred to and continued before the Board.

Upon the basis of the aforesaid stipulation, the record and proceeding in Case No. 20-RC-2695, and the entire record in this case, the Board, having duly considered the briefs filed by the General Counsel and the Respondent, makes the following:

### Findings of Fact

#### I. The Business of the Respondent

The Respondent, an Illinois corporation, is engaged in slaughtering, handling and dressing live-

stock, and selling of meat and related products, with its principal office in Chicago, Illinois, and branch plants and offices located throughout the United States. During the 1954 calendar year, the Respondent purchased and received at its plant in South San Francisco, California, which is alone involved herein, products valued in excess of \$10,000,000, of which approximately 56 per cent was received directly from points outside the State of California. During the same period, the Respondent sold products from its South San Francisco plant valued in excess of \$10,000,000, of which approximately 20 per cent was shipped directly to points outside the State. We find that the Respondent is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction in this case.

## II. The Labor Organization Involved

Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

## III. The Unfair Labor Practices

### A. The appropriate unit and representation by the Union of a majority therein

We find that all plant clerks and standards checkers at the Employer's South San Francisco, California, plant, excluding all other employees, guards



and supervisors as defined in the Act, presently constitute, and have at all times since March 3, 1955,<sup>2</sup> constituted a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

We also find that since March 18, 1955, on which date a majority of the employees in the appropriate unit designated the Union as their exclusive representative, the Union has been the representative of all employees in the unit for purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.<sup>3</sup>

#### B. The Refusal to Bargain

The Respondent admits that on or about March 23, 1955, and at various times thereafter, the Union requested the Respondent to bargain collectively with it as the exclusive representative of employees in the appropriate unit with respect to rates of pay, wages, hours of employment and other conditions of employment; and that since April 27, 1955, the Respondent has refused to accede to such requests. The Respondent contends that it rightfully

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<sup>2</sup>On that date the Board issued its Decision and Direction of Election in *Swift & Co.*, *supra*, finding the above-described unit to be appropriate.

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<sup>3</sup>On March 28, 1955, following the election, the Regional Director certified the Union as bargaining representative of employees in the aforesaid appropriate unit.

refused to bargain with the Union because the standards checkers and plant clerks are either supervisors, confidential employees or managerial representatives and therefore cannot constitute an appropriate unit. In the representation proceeding, the Respondent made the same contention as to the status of these individuals. The Board rejected the contention and found that the plant clerks and standards checkers were employees entitled to the protection of the Act. We perceive no reason for altering our determination in the representation proceeding that the individuals in dispute are not supervisors within the meaning of Section 2 (11) of the Act, or confidential employees,<sup>4</sup> or managerial representatives<sup>5</sup> as those terms are used by the Board. Nor do we perceive any incompatibility between the honest performance of duty by these plant clerks and standards checkers and membership in a labor organization.

In view of the foregoing, we find that by refusing on and after April 27, 1955, to bargain collectively with the Union, the certified bargaining representative of employees in the appropriate unit, the Respondent has violated Section 8 (a) (5) and (1) of the Act.

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<sup>4</sup>The Yale and Towne Mfg. Co., 112 NLRB No. 157; Continental Baking Co., 109 NLRB 33.

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<sup>5</sup>Bachmann Uxbridge Worsted Corp., 109 NLRB 868, 870; Chase Brass & Copper Co., Inc., 102 NLRB 62.

#### IV. The Effect of the Unfair Labor Practices Upon Commerce

The activities of the Respondent set forth in Section III B, above, occurring in connection with the operations of the Respondent, as described in Section I, above, have a close, intimate, and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow thereof.

#### V. The Remedy

Having found that the Respondent violated Section 8 (a) (5) and (1) of the Act by refusing to bargain collectively with the Union as the exclusive representative of the employees in the above-described unit, we shall order the Respondent to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Upon the basis of the above findings of fact, and upon the entire record in the case, the Board makes the following:

#### Conclusions of Law

1. Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

2. All plant clerks and standards checkers at the Employer's South San Francisco, California,

plant, excluding all other employees, guards and supervisors as defined in the Act, presently constitute, and at all times since March 3, 1955, have constituted a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

3. Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, was on March 18, 1955, and at all times thereafter has been, the exclusive representative of the employees in the aforesaid appropriate unit for the purposes of collective bargaining within the meaning of Section 9 (a) of the Act.

4. By refusing on April 27, 1955, and at all times thereafter, to bargain collectively with the Union as the exclusive representative of the employees in the aforesaid appropriate unit, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

5. By said refusal to bargain, the Respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

6. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

Order

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, as the exclusive representative of its employees in the appropriate unit;

(b) In any like or related manner interfering with the efforts of such representative of its employees to bargain collectively on their behalf.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, as the exclusive bargaining representative of its employees in the appropriate unit, with respect to rates of pay, wages, hours of employment and other conditions of employment, and if an understanding is reached, embody such understanding in a signed agreement;

(b) Post at its plant in South San Francisco, California, where the employees in the appropriate unit are employed, copies of the notice, attached



hereto and marked "Appendix."<sup>7</sup> Copies of said notice to be furnished by the Regional Director for the Twentieth Region, shall after being duly signed by the Respondent's representative, be posted by the Respondent immediately upon receipt thereof, and maintained by it for a period of sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced or covered by any other material;

(c) Notify the Regional Director for the Twentieth Region, in writing, within ten (10) days from the date of this Order, what steps the Respondent has taken to comply herewith.

Dated, Washington, D. C., Nov. 10, 1955.

PHILIP RAY RODGERS,  
Acting Chairman;

IVAR H. PETERSON,  
Member;

BOYD LEEDOM,  
Member;

[Seal]

NATIONAL LABOR RELATIONS BOARD.

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<sup>7</sup>If this Order is enforced by a decree of a United States Court of Appeals, the notice shall be amended by substituting for the words "A Decision and Order" the words "A Decree of the United States Court of Appeals, Enforcing an Order."

Appendix

D-9532

Notice to All Employees  
Pursuant to  
A Decision and Order

of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

We Will cease and desist from:

(a) Refusing to bargain collectively with Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, as the exclusive representative of our employees in the appropriate unit;

(b) In any like or related manner interfering with efforts of such representative of our employees to bargain collectively on their behalf.

We Will bargain collectively upon request with Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, as the exclusive representative of employees in the bargaining unit described herein with respect to rates of pay, wages, hours of employment, and other conditions of employment, and if an understanding is reached, embody such understanding in a signed agreement.

The bargaining unit is:

All plant clerks and standards checkers at our South San Francisco, California, plant, ex-

cluding all other employees, guards and supervisors as defined in the Act.

SWIFT & COMPANY,  
(Employer.)

Dated .....

By .....

(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

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Before the National Labor Relations Board  
Twentieth Region

Case No. 20-RC-2695

In the matter of:

SWIFT & COMPANY,

Employer,

and

AMALGAMATED MEAT CUTTERS AND  
BUTCHER WORKMEN OF NORTH AMERICA,  
LOCAL No. 508, AFL,

Petitioner.

TRANSCRIPT OF PROCEEDINGS

Wednesday, January 19, 1955

Pursuant to notice, the above-entitled matter came on for hearing at 10:00 o'clock, a.m.

Before: M. C Dempster, Hearing Officer.



Appearances :

CHARLES P. SCULLY,

Appearing on Behalf of Amalgamated Meat  
Cutters and Butcher Workmen of North  
America, Local 508, AFL, Petitioner.

DONALD H. BUSSMAN,

On Behalf of Swift & Company, Employer.

\* \* \*

Hearing Officer: I will ask the reporter, for purposes of identification, to mark the documents as I state them.

First, the Original Petition in this case, docketed on December 6, 1954, as Board's Exhibit 1-A;

\* \* \*

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 1-A, 1-B, 1-C, 1-D, 1-E, for identification.) [5\*]

Hearing Officer: Are there any objections to the receipt in evidence of these documents, Mr. Bussman?

Mr. Bussman: No objection.

Hearing Officer: Mr. Scully?

Mr. Scully: No objection.

Hearing Officer: There being no objections, Board's Exhibits 1-A through 1-E, inclusive, are hereby received in evidence.

(The documents heretofore marked Board's Exhibits Nos. 1-A to 1-E, inclusive, for identification, were received in evidence.)

Hearing Officer: I now would like to suggest the commerce stipulation, which Mr. Bussman has looked at already.

Mr. Scully: It is agreeable with the Petitioner.

Hearing Officer: It is my understanding that the parties are ready to stipulate to the following statement:

“Swift & Company, herein called the Employer, is an Illinois Corporation, with its principal office in Chicago, Illinois, and branch plants and offices located throughout the United States.

“It is engaged in the slaughtering, handling, and dressing of livestock.

“Only the Employer’s meat packing plant at South San Francisco, California, is involved in this proceeding.

“During the twelve months period, ending December 31, 1954, the Employer’s purchases at its South San Francisco plant of [6] products and materials were in excess of \$10,000,000, approximately 56% of which came from outside the State of California. During the same period, its sales of products from its South San Francisco plant were in excess of \$10,000,000, approximately 20% of which it directly sold and shipped to points outside the State of California.

“The Employer and the Petitioner in this proceeding both concede the Employer’s plant at South San Francisco, or its meat packing plant at South San Francisco, California, comes within the jurisdictional policies of the National Labor Relations Board.”

Do you so stipulate, Mr. Scully?

Mr. Scully: So stipulate.

Hearing Officer: Mr. Bussman?

Mr. Bussman: So stipulate.

Hearing Officer: Off the record.

(Discussion off the record.)

Hearing Officer: On the record.

It is my understanding that the parties are ready to stipulate to the following statement:

“The Petitioner in this proceeding, namely, Amalgamated Meat Cutters and Butcher Workmen of North America, A.F.L., Local 508, affiliated with Amalgamated Meat Cutters and Butcher Workmen of North America, A.F.L., is a labor organization within the meaning of the National Labor Relations Act as amended.” [7]

Do you so stipulate, Mr. Bussman?

Mr. Bussman: The Company so stipulates.

Hearing Officer: Mr. Scully?

Mr. Scully: So stipulate

Hearing Officer: Off the record.

(Discussion off the record.)

Hearing Officer: On the record.

As a result of an off-record discussion, it is my understanding the parties are ready to stipulate to the following statement:

“The Employer presently has a contract with the United Packing House Workers of America, C.I.O., which contains the following bargaining unit description: ‘All employees in the boiler and engine room, including engineers, firemen, and expansion

men (temperature control men), auto mechanic (Helper), machinists, electricians, the scale repair man, oilers, the welder's helper, the tool room man, the blacksmith, carpenter, tanners, the bricklayer, pipe fitters, and painter; excluding all coopers and truck drivers and all production employees, elevator operators, laundry workers, janitors, the chief engineer and master mechanic, the assistant engineer and assistant mechanic, the supply man, the fire marshal, all clerical and office employees, the cooper supervisor, the auto mechanic supervisor, the carpenter foreman, the electrician foreman, and all other supervisory employees with authority to hire, promote, [8] discharge, discipline, and otherwise effect changes in the status of employees or effectively recommend such action.'

"The Employer, in addition, has a contract with the Petitioner in this case, which contract contains the following bargaining unit description, 'All production employees, excluding supervisory employees, clerical employees (plant and office), plant protection force, steam, power, and refrigeration employees, mechanical and maintenance gangs, coopers, and truck drivers.'

"The Employer also has a contract with the International Brotherhood of Electrical Workers, A.F.L., covering electricians.

"All of the above contracts, or units, have been certified by the National Labor Relations Board, and have been in existence for some years.

"In addition, the Employer has a contract with the International Brotherhood of Teamsters, Chauff-

feurs, Warehousemen, and Helpers of America, A.F.L, which covers drivers, and which contract has also been in force for a long number of years.”

Do you so stipulate, Mr. Bussman?

Mr. Bussman: The Company so stipulates.

Hearing Officer: Mr. Scully?

Mr. Scully: So stipulated. [9]

\* \* \*

FRANCIS STEWART SIGLER

a witness called by and on behalf of the Employer, being first duly sworn, was examined and testified as follows:

Direct Examination

Hearing Officer: Will you please spell out your full name for the record?

The Witness: Francis Stewart Sigler, S-t-e-w-a-r-t.

Hearing Officer: And your last name?

The Witness: S-i-g-l-e-r.

Hearing Officer: And your address?

The Witness: Business or home?

Hearing Officer: Business?

The Witness: South San Francisco, [11] California.

Hearing Officer: Care of Swift & Company, I take it?

The Witness: Care of Swift & Company.

Hearing Officer: You are employed by Swift & Company, are you not, Mr. Sigler?

The Witness: I am.

Hearing Officer: And what is your title?



(Testimony of Francis Stewart Sigler.)

The Witness: Plant Superintendent.

Hearing Officer: And approximately how long have you had that position?

The Witness: Since January 3, 1955.

Hearing Officer: And what position did you have before?

The Witness: Assistant Plant Superintendent.

Hearing Officer: And approximately how long was that, that you had that position?

The Witness: Twelve years.

Hearing Officer: Was that in South San Francisco also?

The Witness: That was in South San Francisco.

Hearing Officer: Would you please take your witness, Mr. Bussman?

Q. (By Mr. Bussman): Mr. Sigler, I am going to ask if you would please shout your answers to me, because we are quite a distance apart?

Could you tell us how many years you have been at the South San Francisco plant?

A. Twenty-eight. [12]

Q. Could you describe, generally, your duties and responsibilities as Superintendent?

A. I have the over-all responsibility for all production operations at the South San Francisco meat packing plant.

Q. Could you enumerate for us, specifically, what some of these duties and responsibilities consist of?

A. I have prepared a list of those responsibilities, and not necessarily in the order of their importance: the hiring of applicants for employment;



(Testimony of Francis Stewart Sigler.)

the selection and training for jobs; the instructing in regard to Company policies; the keeping of time records; the computation of earnings; computation of incentive earnings; the producing of labor standards to enable us to ascertain these premium earnings; administering labor agreements; the receipt of supplies, and checking and proper storing and handling of the same; receipt and handling of raw materials and the processing efficiently into finished products; the ascertaining of the manufacturing cost of producing these products, and the recording of the same; the recording of the disposal of all finished products; keeping the plant premises and equipment in order and repair and in proper sanitary condition; looking after the safety of the employees and the plant property; seeing that there is no pilferage or falsification of records; producing of steam power and refrigeration and the distribution of the same.

Q. Mr. Sigler, how many employees do you have at the South [13] San Francisco plant?

A. Approximately 750.

Q. Now those duties that you have just named, do you perform all of these duties yourself, personally?      A. I do not.

Q. Could you give us some idea of what the structure of the operating end of the plant is?

A. It consists of many departments, each of whom is supervised by a foreman, who is assisted by his clerk.

Q. How many plant clerks do you have?

(Testimony of Francis Stewart Sigler.)

A. Twelve.

Q. Could you give us some idea of which of the duties, that you have named before, are performed by plant clerks?

A. I will give an outline of a clerk's duties. I will take a representative department, one in which I, myself, was the clerk at one time. That's our sweet pickle curing cellar.

A Clerk in that department keeps the time records; he weighs the product going into cure; makes out vat identity records; instructs the workmen to what portion of the cellar to truck the product to and put into cure.

Mr. Scully: May I interrupt? Could I have that last one back, Mr. Hearing Officer?

Hearing Officer: Would the reporter please read the previous stated duty?

(Part of answer read.) [14]

Q. (By Mr. Bussman): Do you wish to continue, Mr. Sigler, or is that all you have to say?

A. He enters on two stock record books, the quantity and the location of the product put into cure, curing ages, overhauling time schedules; makes out pulling data, which is a record of the day that the product is cured; hands overhauling cards to overhaul man; makes out supply records, showing quantities ordered, when received, amount used; assists in the taking of inventories of both product and supplies; accumulates sales data, that is the

(Testimony of Francis Stewart Sigler.)

daily shipping weights to various outlets; visually accompanies tierce overhaul man——

Hearing Officer: T-i-e-r-c-e?

The Witness: Yes, accompanies tierce overhaul man to visually assert that product is overhauled properly; makes out weekly stock reports showing quantities and ages of product; makes out monthly production record, which is a means of ascertaining yield, yields and gains.

Q. (By Mr. Bussman): Well, just to interrupt you here for a minute, could you give us an idea of what you mean when you said, “He accompanies the tierce overhaul man”?

A. This particular job is one that he actually instructs the overhaul men which tierce is to roll and how far. He actually instructs them, accompanies them and actually instructs them.

Q. Well, what is the purpose for moving the tierce?

A. It is to properly cure the meats which, if not overhauled [15] would lay together and not become properly cured. It actually stirs up the meat within the curing.

Q. Mr. Sigler, by way of simplification, would it be correct to say that this plant clerk’s duties consist of keeping records pertaining to inventory?

A. Correct.

Q. Records pertaining to production, the amount of production? A. That is right.

Q. Records showing the volume of shipment out of the department? A. Correct.

(Testimony of Francis Stewart Sigler.)

Q. Records showing the transfer of products in and out of the department?

A. That is correct.

Q. Maintaining records which indicate the cost data which applies to a particular product?

A. That is right.

Q. Does the plant clerk keep records of the hours worked by the employees in the department?

A. He does.

Q. Would the plant clerk ever make out vacation slips for employees in the department?

A. He does.

Q. Could you tell us——

A. (Continuing): ——on many occasions. [16]

Q. Could you tell us what is meant by a vacation slip?

A. It is a slip that goes to the timekeeper and is the basis for payment of vacation money to the employee.

Q. If you, in your capacity as Superintendent, or anyone in the general office, wanted information pertaining to a particular department, who would furnish this information to you?

A. Restate that, please?

Q. If you, in your capacity as Superintendent, or anyone in the general office, wanted a record pertaining to a particular department, who would furnish that information, either to yourself or to them?

A. We would——

Q. (Continuing): ——or to your office?

(Testimony of Francis Stewart Sigler.)

A. We would phone the clerk for that information.

Q. He would prepare the report, is that correct?

A. That is correct.

Q. Mr. Sigler, where is the plant clerk's desk generally located?

A. It is either a double desk occupied jointly by the foreman and the clerk, or an adjacent desk within the same plant office.

Q. Let me ask you this? The facts that you have just given us pertaining to the sweet pickle cellar clerk, are those descriptive of all plant clerks in the South San Francisco plant in a general way?

A. Generally so, generally so. [17]

Q. Now as I understand the set-up, you, as the Superintendent, in conjunction with your foreman, are responsible for a particular department, is that correct?

A. Correct.

Q. And part of the responsibility includes, of course, record keeping, and this record keeping is done by the plant clerk?

A. Correct.

Mr. Scully: Just a moment. I am going to object on the ground the question is leading and suggestive, and I ask that it be stricken. It is the last question, with respect to which, I believe, there was an answer given on the record during the course of my objection.

Hearing Officer: Off the record.

(Discussion off the record.)

Hearing Officer: On the record.



(Testimony of Francis Stewart Sigler.)

Motion granted. Would you please rephrase the question, Mr. Bussman?

Q. (By Mr. Bussman): Is it correct that you, as Superintendent, and the foremen are responsible for a particular department? A. Yes.

Q. I think we have already established that part of the activities of a particular department is the record keeping function, is that correct?

A. That is correct.

Q. Now, would you state for us, then, who does that record [18] keeping work?

A. The record keeping is done by the clerk of that department.

Mr. Bussman: Would it be correct to say that the plant clerk is assisting the foremen who is responsible then, for record keeping in his particular department?

Mr. Scully: I am going to object on the ground that it is leading and suggestive.

Hearing Officer: Well I would suggest, Mr. Bussman, is it correct or is it not correct, then.

Q. (By Mr. Bussman): Is it correct or is it not correct that the plant clerk is assisting the foreman by maintaining records for which the foreman is responsible? A. That is correct.

Mr. Scully: Just a moment. I interpose the same objection. I believe, Mr. Hearing Officer, that we should have the testimony from the witness, rather than from counsel. Now, certainly, if that is deemed to be a question, and I submit it is complex and compound—



(Testimony of Francis Stewart Sigler.)

Mr. Bussman: Well, I am not so sure that we have not covered the point, anyway, and I am not going to go on with it further.

Hearing Officer: Well, objection overruled.

The Witness: There are many occasions when it is necessary that a foreman be absent from his department for supervisory meetings, time off for personal business, where the clerk is [19] asked to take over the supervision of the department during the short interval of the foreman's absence.

Q. (By Mr. Bussman): Do you have any departments, Mr. Sigler, where there is not a plant clerk?

A. We have one department where the clerical work requires but very little time, and is mainly done by the foreman of the department, although a clerk makes out one or two reports in connection with the production of that department. That is the Pard manufacturing department.

Hearing Officer: What?

The Witness: Pard dog food.

Q. (By Mr. Bussman): Are the plant clerks salaried, Mr. Sigler?      A. They are salaried.

Q. Are they paid for the current week?

A. They are paid each week for the current week.

Q. Are the supervisory people salaried?

A. Yes.

Q. And are the supervisory people paid for the current week?      A. On the same basis as clerks.

(Testimony of Francis Stewart Sigler.)

Q. Do the plant clerks enjoy the same vacation privileges that the supervisory people do?

A. They do.

Q. Do they enjoy the same privileges with relation to sickness and accident benefit payments that the supervisory people do? [20]

A. They do.

Q. Are the plant clerks furnished work clothes?

A. They are.

Q. Are the employees in the plant furnished work clothes?

A. They buy them.

Q. Do the plant clerks have a locker room?

A. They share a locker room with the foreman.

Q. Referring back to those records, which you named before as being kept by the plant clerk, are any of these records of a confidential nature?

A. All cost data, production data is confidential. We certainly do not want that information to get into competitors' hands.

Q. Now, what people in your organization would know the contents of those particular records relating to cost and production?

A. Myself, the division superintendents, my assistants, foremen, clerks, standards checkers have access to that information.

Q. Would a plant clerk ever have any connection with a grievance case in the particular department in which he was assigned?

A. In cases involving seniority or questions of whether or not the employee had received the proper pay, the foreman might instruct the clerk, and actually has in instances that I know of, to secure em-

(Testimony of Francis Stewart Sigler.)

ployment records from the employment record [21] files to determine the facts of the case.

Q. He accumulates this information for the foreman, is that correct?

A. Yes, he would secure the information for the foreman.

Q. Mr. Sigler, relating back, once again, to your reference about the duties and responsibilities, you mentioned computation of incentive earnings.

I am wondering if you would tell us what you mean by "incentive earnings," and, of course, that would involve a brief description of the standard system?

A. The standards plan, that Swift & Company has had in effect for many years, is a plan whereby a measurement is made of work to establish a normal time for the operation, a normal time for a job performed by a normally skilled operator under normal conditions.

The standard is established by means of a time-in-motion study in terms of standard hours. The premium earnings are arrived at by a standards checker going to the department in which the work is performed and from department records, and from conversation with the foreman and clerk, he determines, daily, the work performed in that department for the preceding day.

It is expressed and translated to the standards checking sheet in terms of hundred weight produced, hundred weight shipped, number of pieces handled, number of head of livestock [22] slaughtered, the

(Testimony of Francis Stewart Sigler.)

average weight of the animal, the sex, and in some cases, the age in the cooler of the animal or its component parts, a factor in the application of the proper standard.

After all the production data is put on the standards checking sheet by the standards checker, he goes over that sheet with the foreman; the foreman signs it, indicating its accuracy so far as he is able to ascertain. The sheet is extended by comptometer operators, total standard hours arrived at, and a premium or incentive pay calculated.

The standards checker must, in his discussion with his foreman and the clerk, determine if there are any abnormal conditions that occurred that day; such as delays, determine what operations for which there was no standard that was applicable, determine the time for such delays on known standard jobs.

I think that is about the picture

Q. How many standards checkers do you have at the South San Francisco?      A. We have five.

Q. Is it correct or is it not correct, Mr. Sigler, from what you have said, that there are at least three figures which the standards checker must ascertain in order to figure incentive earnings? Now, these three figures would be the production data from the department involved, the hours worked by the employee on standards, and, of course, the applicable standard. Is that a correct statement or is that over simplified? [23]

A. That's stating it in condensed form. The de-



(Testimony of Francis Stewart Sigler.)

termination of the proper standard to apply for a job is a most important job. The standards checker must use the best of judgment in ascertaining conditions existing on a particular day in order to apply the correct standard to meet the condition.

Q. Could you give us an approximate idea of how many standards there are in effect in South San Francisco? A. There are several thousand.

Q. In order to apply the applicable standard, is it necessary for a standards checker to know the job description?

A. He must have a thorough knowledge of the operations of the department that he is checking in order to have the standard fit the job.

Q. You mentioned before, I believe briefly that there are several variables involved as to which standard would be applicable.

Could you give us some idea of what these variables would be?

A. A good example would be skinning calves. The hide of a calf that's been in the cooler four days before skinning is much more difficult to remove than one that's just been in the cooler for one day. There is a standard for a calf that has been in the cooler for four days and there is a separate standard for one that has been in the cooler for one day. The standard must fit the job. [24]

Q. Would the temperature of the animal make any difference?

A. Not so much as the age, which is the drying up of the hide to the carcass, and it makes it harder

(Testimony of Francis Stewart Sigler.)

to remove. There are temperature variables in some departments.

Q. And——

A. (Continuing): ——which would affect the standard to be applied.

Q. And where does the standards checker get this information from?

A. He gets his information from the foreman and the clerk. Those are his sources of information. The foreman is the responsible man for supplying him with proper information, and he is aided by the clerk.

Q. Are the incentive earnings posted, then, in the plant?

A. They are posted on the plant premises, yes, for the operators to see, one or two days after the work is performed, what their incentive pay amounted to.

Q. Perhaps it is almost too obvious to mention, but for the record, could you give us a statement of what the result would be if an improper application of standards were made?

A. If, in the operator's opinion, he was inadequately compensated for his extra effort on a particular day, he would certainly have a grievance.

Q. And who would he talk to if he was under that opinion?

A. Well, he would most assuredly go to his foreman and raise [25] a loud protest that his standards earnings must be in error.



(Testimony of Francis Stewart Sigler.)

Q. And what would the foreman's course of action be from there?

A. The foreman would either get hold of the standards checker himself, or the head checker, and he would demand that that standard sheet be brought back to the department for a recheck.

Q. Is it true or is it not true, that the improper application of standards would result in either overpayment or under payment, as far as the employee was concerned?      A. Very definitely.

Q. Do the standards checkers have any desks?

A. Do they have what?

Q. Any desks?

A. They do most of their work in the plant department office, and have desk facilities in that office, usually the foreman's desk or adjacent desk.

Q. How long does it take to train a standards checker, Mr. Sigler?

A. Oh, I think that four to six months is a good average time that it takes for a man to become fully adequate.

Hearing Officer: May I interrupt here, just a moment? When you say in the plant department office that the standards checker has his desk, does that mean or does it not, that each department has an office in the plant, separate office, where [26] the foreman, the clerk, and the standards checker has his desk?

The Witness: We have a number of offices throughout our plant. In some cases, they are shared by more than one foreman. We have instances of

(Testimony of Francis Stewart Sigler.)

where one clerk does the clerical work for more than one foreman.

Mr. Bussman: Do you have anything else, Mr. Examiner?

Hearing Officer: No.

Q. (By Mr. Bussman): Are the standards checkers salaried? A. They are.

Q. And are they paid for the current week?

A. They are.

Q. Do they enjoy the same vacation and sickness and accident benefits and privileges that the supervisory people do? A. They do.

Q. And do they have a locker room?

A. They share the same locker room with the Division Superintendent and other members of the Superintendent's office. It's a separate room within our Superintendent's building.

Q. Are they furnished their work clothes?

A. They are.

Q. Did any of your present supervisors have experience as either plant clerks or standards checkers?

A. A large percentage were standards checkers and clerks before becoming foremen. We consider that those jobs are excellent training, excellent training for top supervisory jobs. [27]

Q. Mr. Sigler, I have one last question, and that is whether or not the plant clerks or standards checkers are presently represented by any union?

A. They are not.

(Testimony of Francis Stewart Sigler.)

Mr. Bussman: That is all I have for the time.

Mr. Examiner.

Hearing Officer: Off the record.

(Discussion off the record.)

Hearing Officer: On the record. Mr. Scully?

### Cross-Examination

Q. (By Mr. Scully): Mr. Sigler, could you give us a brief description of the location of the plant, and how it is divided?

A. Well, the plant is located on East Grand Avenue in South San Francisco. It is divided up into a number of what we call departments. Each department has a function, such as the dressing of cattle, the manufacture of Pard dog food, the curing of meats, slicing of bacon, smoking of meats. Those are all separate departments.

Q. And how many separate departments are there in the plant?

A. I do not have a list with me. I will have to get that information and furnish it to you.

Q. Well, your best approximation?

A. There are approximately thirty departments, as we recognize them.

Q. And with respect to these departments, are they physically [28] separated, one from the other?

A. Some are; some are contiguous.

Q. By that—

A. That is, within the same room, but supervised by different foremen.

(Testimony of Francis Stewart Sigler.)

Q. So that there are, maybe, no partitions, but the operations are in a separate portion of an unpartitioned room?

A. Generally, they are in a separate room or rooms, that is correct.

Hearing Officer: Well, that was not quite your question. He did not quite understand your question.

Q. (By Mr. Scully): My point is that, as I understand it, some of them are physically separated?

A. Most of them are physically separated.

Q. But some are in the same room without a partition, but the operations are in different portions of that unpartitioned room, is that correct?

A. Yes, that is correct. For example, cattle dressing, sheep dressing, and hog dressing are all in one large room, but no partitions between the departments.

Q. But there are separate foremen with respect to that large room?

A. There are separate foremen for those departments.

Q. Now, with respect to the office operations, as distinct from the plant operations, where are the office operations located [29] with respect to the production and plant operations?

A. You are referring to the offices in which the plant foreman and clerk——

Q. No. I am talking about the——

A. General offices?

Q. (Continuing): ——general offices of the Company?

(Testimony of Francis Stewart Sigler.)

A. They are in buildings that are apart from the plant property.

Q. What type of personnel are located in that business office?

A. To be sure that I understand your question, you are asking as to the type of personnel that we have in our general office?

Q. That is correct.

A. And we have a Superintendent's office that has a separate building from the general office.

Q. Well, first take the business office, if you can use that? A. Commercial office?

Q. Commercial office? What type of personnel are in those?

A. It houses the manager, auditor, commercial people, sales, accounting. That is the type of personnel.

Q. And with respect to office personnel, are the office personnel located in the business office. By that I mean, stenographers, typists, office clerks?

A. Yes, that type of personnel is there, but that type of personnel is also in the Superintendent's office. We also have typists, stenographers. [30]

Q. And, in addition to the typists and stenographers, what other personnel are located in the Superintendent's office?

A. We have people who do cost work.

Q. Could you describe them by job classification as people who do cost work? What do you call them?

A. We call them cost analysis men, is a term that



(Testimony of Francis Stewart Sigler.)

we use for a couple of them. We have a head checker.

Q. Now the head checker, is he a head standards checker?

A. He is a head standards checker.

Q. And he is located in the Superintendent's office?

A. He is located in the Superintendent's office.

Q. Could you briefly describe his duties?

A. His main function is to teach and instruct new checkers in their duties. There is a considerable learning period. He scrutinizes their work sheets, from time to time. He helps them investigate claims of error by the foreman or the workmen in departments. Those are his main functions.

Q. Well, as a matter of fact, is he not the immediate supervisor of the five standards checkers?

A. He is in a supervisory capacity over those five men, that is correct.

Q. I say, the immediate supervisor?

A. He is the immediate supervisor, that is right.

Q. Now, with respect to the records that are maintained, are the standard check lists, I believe is the term, is that a term [31] used on which these entries are made by the checkers?

A. It's a standards checking sheet, is the way it is referred to, a daily checking sheet.

Q. With respect to the standards daily checking sheet, what type of a sheet is that? Is it a typed or mimeographed sheet?

A. It is usually a stencil that has been cut.



(Testimony of Francis Stewart Sigler.)

Q. And where is that cut and prepared?

A. That is prepared in the Superintendent's office.

Q. And is it a uniform sheet for all of the various departments in the plant, to be used by the standards checker?

A. No, a special sheet is prepared, or sheets are prepared, for each department. There's no sheet that is applicable in all departments.

Q. So that in the Superintendent's office, depending upon the department that the checker is to be working in, he will have different types of checking sheets, is that correct?

A. State that again, to be sure I understand it?

Q. I said, as far as the standards checker is concerned, there will be different types of checking sheets prepared in the Superintendent's office, to be used by the standards checker, as he goes from one different department to another?

A. That is correct.

Q. And, with respect to those checking sheets, what entries are made on the sheets when the stencil is prepared? [32]

A. A description of the job, which may occupy one or more lines, certain job constants——

Q. Certain job what?

A. Constants, that are always the same. In other words, they are not variable operations from day to day.

Q. Would you say that you, could we use the term of fixed standards?

(Testimony of Francis Stewart Sigler.)

A. Yes, those would be fixed standards. That is applicable to it.

Q. In addition to that, what else would be on the stencil?

A. The variables would have a blank space for the standard itself. Those are the variables; the average weight of the carcass, the sex, as in the case of slaughtering operations.

Q. But those would be listed by designation under variables?

A. They would be listed by name, but the standard itself is one that the checker must consult with the foreman and the records in the department to obtain the proper average weight, animal, the proper average weight container. Perhaps, in some cases, it is a matter of trucking distances.

Q. But, whatever those variables may be for the particular department, there would be listed on the stencil, the variables?

A. They are listed on the stencils, but the standard itself is determined by the checker in the department, after consultation with the foreman and he fills that in with pencil.

Q. And what else is on the stencil sheet? [33]

A. There are columns for standard hours, which are filled in by comptometer operators, who extend the volume times the standard.

Q. Is there anything else on this checking sheet?

A. Space is provided, columns are provided for the hours worked by the operators doing the work. the operator's number, and the hours that he has on standard.

(Testimony of Francis Stewart Sigler.)

Q. Anything else?

A. There are recapitulation columns. There is a recapitulation sheet for the entire number of work sheets that are attached. There may be one in some departments; there may be as many as eight or ten in other departments. All are accompanied by a recapitulation sheet, showing the operator's number and his hours, total hours, total work units, total standard hours, from which the money calculations are finally arrived at.

Q. Is there anything else?

A. There is a sheet that lists the things that are not on standard which are delays, the day work operations for which there is no applicable standard, guaranteed time, if any.

Q. Anything else?

A. To the best of my recollection, that's what is on those sheets.

Q. All right. Now, who actually formulates these various stencils for the various departments? In other words, who decides what goes on there? [34]

A. That is generally done by the time study man, the time-in-motion study man.

Q. And is he the cost analyst?

A. No, he is not the cost analyst.

Q. Where is he located?

A. In the Superintendent's office.

Q. And he makes a determination as to what should go on these various stencils, is that correct?

A. The head of the standards department is the man, with his assistant and time study men. I am not sure, I can't be sure to what extent the checker may assist or participate. He may suggest revisions.

(Testimony of Francis Stewart Sigler.)

I'm not too close to that, but mainly it is done by the time study man, the head checker, and, I'm sure in some cases, assisted by the checkers themselves as to suggestions for changes in sequence of jobs that would make their workers clear.

Q. And with respect to the standards themselves, who established the standards?

A. Those are established by time-in-motion study men.

Q. And that is the same person located in the same place?      A. That is correct.

Q. And with respect to the variables, who determines the variables?

A. The variable standards themselves are determined by the time-in-motion study men, always checked by the head of the [35] standards department, and the variable standards themselves are furnished to the checker in typewritten form in what we call a "standards book."

Q. In other words, in addition to the stenciled sheets, there are also what you have just referred to as a standards book?      A. That is correct.

Q. And as I gather it, then they have in there, typed out for the checkers, what the standards are as with the variables?      A. That is correct.

Q. And who devised and compiled that book?

A. The time-in-motion study men write up the standards before they are typed and after they have been checked and are approved by the proper supervisory personnel in the standards department.

Q. Now, would you define "the proper supervisory personnel in the standards department"?



(Testimony of Francis Stewart Sigler.)

A. The head of the standards department. There are also Chicago representatives who also check these standards before they have reached the stage of final approval, before they are typed and become the final approved standards.

Q. And is that the same as to the variables that are in the book?

A. That includes the variables, correct.

Q. And any changes that are made in either the changes or the variables, are they devised and agreed upon by the same personnel [36] that you have just mentioned?

A. That is correct.

Q. And with respect to either the standard checkers or the plant clerks, do they change them themselves at any time or is that done only in the Superintendent's office with the time study, cost analysis people?

A. Those are the only people authorized to change the basic standards themselves. The standards checker selects, from the standards book, the proper variables to suit the condition that exists on that particular day.

Q. But he would have to select one that has already been established?

A. He has to select one that has already been established, he does not establish the grade himself.

Q. Now, with respect to these checking sheets, where are these sheets maintained for filing purposes?

A. In the Superintendent's office.

Q. In the Superintendent's office?

A. Yes.

Q. And with respect to the computation of the premium or incentive pay, that you mentioned, is

(Testimony of Francis Stewart Sigler.)

that also done in the Superintendent's office or in the business office?

A. No, that is done in the Superintendent's office.

Q. And, with respect to the preparation of the checks, whether they be normal weekly checks or vacation checks or similiar [37] checks, are they done in the Superintendent's office or in the business office?

A. They are done in the Superintendent's office. Checks are written in our timekeeper's office.

Q. Now, with respect to the five standards checkers, do they report to work by punching a time clock? A. They do.

Q. And where is the time clock located?

A. In the Superintendent's building or rather, a continuation of the time office, which is part of the Superintendent's building.

Q. And with respect to that time office, do not certain production workers also check in at that time clock?

A. The girls in our cafeteria also use that time clock because of its location, its closeness to the cafeteria.

Q. Any other production workers use that same time clock?

A. I believe that a livestock handler in the stockyards also uses that clock. That's all I can recall at the moment.

Q. Mention has been made of some lockers. Where are the lockers that the standards checkers use located?



(Testimony of Francis Stewart Sigler.)

A. In the first floor of the Superintendent's office.

Q. And do they each have a separate locker?

A. There may be instances of where two of them occupy the same locker.

Q. And are there any other, are there any production workers [38] who use that locker space?

A. Not to my knowledge.

Hearing Officer: Any maintenance men use the same locker space?

The Witness: No, no.

Q. (By Mr. Scully): Now, with respect to the operations of the standards checkers, there are five standards checkers in approximately thirty departments, as I understand it?

A. Yes, that is, there are definitely five standards checkers and the approximate number of departments is thirty.

Q. Now, with respect to each of these departments, there are foremen in charge of each of these approximately thirty departments, is that correct?

A. Well, in some cases, a foreman will have jurisdiction over more than one department. We speak of departments, rather than foremen. One foreman may have jurisdiction over more than one department.

Q. How many foremen do you have over the various departments?

A. We have approximately, it is variable, thirty to thirty-five foremen.

Q. And with respect to these foremen, how many

(Testimony of Francis Stewart Sigler.)

plant offices do you have for these thirty to thirty-five foremen?      A. Approximately twelve.

Q. And with respect to the standards checkers, do they do their work in any one of these twelve plant offices? [39]

A. Yes, they work largely in the twelve plant offices.

Q. Well, I mean, they are not assigned to any particular one of them for all times?

A. A checker is assigned to check certain departments, and one checker may check four or five departments. He may travel from one plant office to another.

Q. In other words, he may use several offices or he may use one?

A. He may use, he may be confined entirely to one, as in the case of table-ready meats, a large department, he is confined to that one office. Smaller departments, he may have two or three.

Q. And it depends on what his functions are, and where he is moving from and to?

A. That is correct.

Q. And with respect to the work that he does in that plant office, is that simply filling out these stenciled sheets that you have described?

A. Let me describe it in this fashion. I have done standards checking. You, as a standards checker, these standards checkers—let's put it that way—this standards checker secures the time from the clerk. That is usually the first step. Then he obtains—

(Testimony of Francis Stewart Sigler.)

Q. Now, if I could interrupt you there, how does he secure the time? Does he go ask him for some time record he has? [40]

A. That is correct. He asks him for the time record. He also asks for various production records, which are sales tickets, transfer sheets, and similiar information.

Q. Now if I could interrupt you there, are those maintained in the plant office on a constant basis, or is that just with respect to the previous day's operations?

A. Some are maintained in the plant office. Others are locked in vaults. Others are stored, after a certain period of time, stored in certain record rooms.

Q. Well then, as I understand it, the standard checkers' sheets are kept in the Superintendent's office, is that correct?

A. Those are kept in the Superintendent's office.

Q. All right. Now with respect to these time records that you have mentioned, do they ultimately come to the Superintendent's office?

A. Those ultimately end up in a vault for an indefinite retention.

Q. And where is the vault located?

A. There is a vault in the, in our time office.

Q. That is in the Superintendent's office?

A. In the Superintendent's office, and in some cases, those records are stored in a larger vault in our general office.

(Testimony of Francis Stewart Sigler.)

Q. In the business office?

A. That is correct.

Q. All right, and with respect to the thirty odd departments, [41] how many departments send their time records to the Superintendent's office?

A. All time records are sent to the time office.

Q. And when are they sent to the time office?

A. On Monday of each week for the preceding week's work.

Q. So then, the most time records are kept in any plant office is for a one week period, is that correct?

A. That is correct.

Q. And when these records are sent into the Superintendent's office, are they reviewed by any of the supervisory or clerical personnel in the Superintendent's office before they are stored?

A. They are checked by time office procedures.

Q. Are they checked against these daily stencilled checking sheets of the standards clerks?

A. No, there is no check on those at all.

Q. Who, if anyone, checks these checking sheets of the standards clerk when they come into the Superintendent's office?

A. They are handed by the checkers to the comptometer operators for extension. There is no preliminary checking. There may be some exceptions to that, but that is the general rule. They are handed directly by the standards checker to the girls that do the comptometry work.

Q. And the comptometer work is what, the computation?

(Testimony of Francis Stewart Sigler.)

A. That is the computation of the standard hours, the computation [42] of the rate of production.

Q. And when that computation is complete, to whom do the comptometer operators submit their determinations?

A. There are questionable cases where it goes to the head of the standards department for scrutiny, or rather, let's put it this way, he is making spot checks regularly. He and his assistant are scrutinizing these sheets at least some of them. They make what we call "spot checks."

Q. In other words, the standard and the head checker, is that correct?

A. The head of the standards department and his assistant and the head checker will all make spot checks.

Q. When the spot checks have been made, or those that are not in the spot check, are completed, where are they transmitted?

A. Where are they transmitted?

Q. Yes.

A. The sheet itself is stored in a vault in the Superintendent's building.

Q. Kept in the Superintendent's building?

A. Yes.

Q. Now, you have made reference to employment records. You said occasionally, that someone will be instructed to bring, to obtain employment record files.

Where are those kept?



(Testimony of Francis Stewart Sigler.)

A. In our employment office. The service records of all [43] employees are.

Q. That would be the business office?

A. No, that is the Superintendent's office.

Q. The Superintendent's office?

A. The Superintendent's office.

Q. Now with respect to the standards checkers, when they are going through the plant, they have this printed booklet and they have the stencil and they make certain entries. As I understand it, they do not sign the stencil, the foreman does?

A. The foreman signs the recapitulation sheet, that is correct.

Q. And the foreman reads it and checks it, is that correct?           A. Yes, he looks it over.

Q. And if an error occurs, does he correct the error?

A. He calls the standards, calls for the standards checker to bring the sheet back to the department, and he will go over it with that standards checker, and in some cases, the head checker.

Q. Well then, as I understand it, the standards checker is not there personally. He leaves the sheet there for the foreman to sign, is that it?

A. No, he takes the sheet with him after he has completed the sheet. He hands it to the foreman for signature, and the sheet is then taken by the standards checker directly to the standards office in the Superintendent's office. [44]

Mr. Scully: Well, the point I am making is, as

(Testimony of Francis Stewart Sigler.)

the standards checker hands it to the foreman and he checks it, and the foreman finds a mistake in that stencilled sheet—

The Hearing Officer: Before signing it?

Q. (By Mr. Scully): —before signing it, does he then make the corrections?

A. No, not the standards, no one is permitted to make alterations on that but the standards checker himself. He is responsible for that sheet.

Q. And does the foreman tell him to make a certain entry?

A. The foreman may cite an error, what he thinks is an error, and ask him to recheck it.

Q. All right.

A. The foreman has no authority to put one single thing, one single figure on that sheet. That is the standards checker's job.

Q. And if there is an error, and the standards checker will not correct it, does the foreman then sign it?      A. No, sir.

Q. What does he do then?

A. Any question of error that the standards checker will not affirm, or will not correct by putting in a corrected figure, or, in other words, if he has reason to believe that information given him is incorrect, he will discuss the matter with the head checker or the head of the standards department, whichever one [45] happens to be available at the time.

Q. In other words, he will then go to the head

(Testimony of Francis Stewart Sigler.)

checker, or to the standards department head, rather than instructing the standards checker to make a correction before he would sign it, is that correct?

A. You mean, are you speaking of the foreman?

Q. The foreman.

A. That the foreman will go?

Q. Yes.

A. In a case of that sort, and that would be a rarity, of where a standards checker would refuse to put in information given him by the foreman, the standards checker would go to the head of his department and describe that situation. I am certain that's what he would do. A situation like that would be a rarity, I am sure. I don't know of any such.

Q. Well, as I understand it, it is the foreman, and not the standards checker, who signs the sheet?

A. He signs the sheet to indicate that he has seen it and, to the best of his knowledge, it is correct. That is the purpose of his signature, that he has seen it.

Q. But the foreman is the one who signs it, not the standards checker?

A. The foreman, that is correct.

Q. Now with respect to the standards checker, what data does he obtain from the plant clerk with respect to these stencilled [46] sheets?

A. I didn't get your question.

Q. What data does the standards checker obtain from the plant clerk with respect to these stencilled sheets?

(Testimony of Francis Stewart Sigler.)

A. The majority of information that the standards checker puts on the standards checking sheets, that is the production data, comes from records that are made out by the department clerk.

Q. In other words, that is the type of product the individual had worked on, the hours of work, and things of that nature, is that it?

A. That is correct.

Q. And with respect to that data, does he simply copy what is on the records of the plant clerk?

A. He translates that information to the standards sheets. I say that he translates it, because he has to take the information that are on what we call, "department records," and adapt it to the standard sheets.

Q. What data does he take, and how does he adapt it? Describe that to the Hearing Officer and myself.

A. I will use my curing cellar example, with which I am so familiar, because I was once clerk of that department myself.

Q. All right.

A. The product that goes in to cure each day is on a record sheet made out by the clerk, but the standards checker must ask [47] the clerk what location in the curing cellars the product was put down. That is necessary because there are standards to cover the varying distances from what we call the green grading area to the put-down area, involving considerable trucking labor.

Q. So then, as I understand it, on the plant

(Testimony of Francis Stewart Sigler.)

clerk sheets, there is certain data that is not present with respect to the location of products, is that correct?

A. That is right, which the standards checker must ascertain, either from the clerk or foreman.

Q. All right, and when the clerk tells him, he just makes that entry? He does not make any physical inspection to verify that data, is that correct?

A. There might be occasions when he might question the accuracy of information, as he understands it, and he might go, physically check it. I have done that myself, when I have checked standards sheets.

Q. If the standards checker and the clerk do not agree, what happens then?

A. The next logical step would be to call the foreman into the picture, if they can't get agreement. I am sure they will call in the head of the standards check cannot agree, then it would go

Q. So then, if the foreman, the clerk, and the standards checker cannot agree, then it would go back into the Superintendent's office via the standards and the head checker, is that correct? [48]

A. That is correct.

Q. Now, with respect to the compensation paid to the standards checker, the testimony is that they are paid on a salary basis, is that correct?

A. Correct.

Q. If they had an unexcused absence during a work week, is there any deduction made for this from their salary?



(Testimony of Francis Stewart Sigler.)

A. Depended upon their service and the particular conditions surrounding that absence.

Q. Well, could you explain a little further on that?

A. Ordinarily, salaried employees, who are absent due to some illness——

Q. I am just talking about unexcused absences?

A. An unexcused absence, oh, I misunderstood. An unexcused absence; you are talking specifically about a standards checker or clerk or any salaried employee?

Q. No, standards checker, only?

A. The unexcused absence of standards checker or any salaried employee at Swift & Company must be explained before he is paid, or he is not paid, depending upon the circumstances of his unexcused, unexplained absence. He may conceivably be able to talk his way out of it.

Q. So it may or may not be deducted, depending upon the nature of his excuse, is that correct?

A. That is true of anyone, and irregardless of the length of [49] their service. They must have a reason for being away that is a logical reason before they are paid.

I might add, that we have, it's such a situation as non-existent, as far as I know. I don't know of any such case of an unexcused absence. I can't recall one.

Q. Now, references have been made to sick and accident, or health and welfare benefits that are payable to the standards checkers and to the clerks.

(Testimony of Francis Stewart Sigler.)

Do you have sick and accident or health and welfare benefits payable to the production employees presently represented by the Petitioner?

A. We do.

Q. And how do they differ from the health and welfare and sickness and accident benefits paid to the standards checkers?

A. They are essentially the same.

Q. They are essentially the same?

A. They are essentially the same.

Q. And reference has been made to vacation pay.

A. Let me go back over that question again. I want to be certain that I am not confused. Are you talking about hospitalization, medical, surgical, benefits or pay for illness when sick?

Q. I am talking about whatever the sickness and accident benefits that you testified to, that the checkers got, that was comparable to the supervisory personnel, as you used the term?

A. Well, I wish to correct my statement. There is a difference [50] in the sickness and accident pay to salaried employees as distinguished from the hourly paid plant employees. I misunderstood your question.

Q. Would you explain the difference, please?

A. Plant employees, represented by the bargaining unit, are paid for sickness, dependent upon their length of service.

Q. How are the checkers, standards checkers, paid?

A. (Continuing): —and our plant employees,

(Testimony of Francis Stewart Sigler.)

production workers are paid so much half pay for each year of service, whereas, the salaried employee receives a full pay, as compared to half pay.

Q. In other words, the distinction is the amount of the pay?      A. The amount of pay.

Q. Now with respect to this hospitalization benefit, that you refer to?

A. That is where I misunderstood your question. As far as the hospital, medical, surgical benefits are concerned, there, the salaried employees receive essentially the same benefits as do the production workers.

Q. And that is under a plan of Swift & Company?

A. That is the Swift & Company plan.

Q. And with respect to the sickness and accident half-pay that you mentioned, that is paid to the production workers, is that as a result of a provision in the collective bargaining agreement with the petitioning Union? [51]

A. That is right.

The Hearing Officer: May I ask a question here?

Are the clerks, typists, and stenographers in the Superintendent's office and the commercial building also on a salaried basis?

The Witness: They are all on a salaried basis.

The Hearing Officer: All the employees in the Superintendent's building and the commercial building?

The Witness: And the commercial building, all on a salaried basis.

(Testimony of Francis Stewart Sigler.)

Q. (By Mr. Scully): And with respect to the office clerical and the ones of the Superintendent's building, do they also receive sickness pay?

A. The office clerical people in the Superintendent's building?

Q. Yes.

A. They are handled identically the same as the standards checkers and all salaried personnel in the Superintendent's—under the Superintendent's jurisdiction.

The Hearing Officer: Off the record.

(Discussion off the record.)

The Hearing Officer: On the record.

Q. (By Mr. Scully): Now, if we may go, just for the moment now, to the plant clerks, as distinct from the standards checkers that you have mentioned, could you give me the number of [52] plant clerks that there are employed?

A. There are twelve.

Q. Twelve plant clerks?

A. Twelve plant clerks.

Q. So that we can get the designation of the people, in addition to their position, could you describe by name, who the standards head is?

A. It is William A. Turnbull, T-u-r-n-b-u-l-l. He's the head of the standards department.

Q. And who is immediately, who is his immediate assistant? A. L. A. Wright, W-r-i-g-h-t.

Q. And that is the individual referred to as the

(Testimony of Francis Stewart Sigler.)

assistant head?           A. That is correct.

Q. And with respect to the head checker, could you describe him by name?

A. Royce Welch, R-o-y-c-e-e, W-e-l-c-h.

Q. Now with respect to the plant clerks, who are approximately twelve in number, I gather that some of those clerks work for a number of these thirty to thirty-five foremen, is that correct?

A. That is correct, yes.

Q. Now, with respect to the plant offices, is there a clerk in each one of these plant offices or are there more plant offices than there are plant clerks? [53]

A. There are approximately the same number of offices as there are plant clerks.

Q. And with respect to the plant clerks, do they, like the checkers, go from one office to the other, or do they stay in one office?

A. The majority of them stay in one office. We do have instances of some two or three men who do travel to a second office. I don't believe that any clerk uses more than two offices to a department.

Q. Now you described the duties of the plant clerk, such as keeping time records and weighing products and things of that nature. When they are doing such items as weighing, where are they located in relationship to production employees?

A. They are located, in most instances, within the confines of the department where the work is performed. There are exceptions to that. There are several exceptions to it. It's both ways. In other



(Testimony of Francis Stewart Sigler.)

words, some are actually within the confines of the work room and others, they are in a separate room or building.

Q. And so then, they are moving about within the departments where these production people are working, is that correct?

A. To a limited extent. When they travel from one office to another, that is about the extent of it, excepting when they relieve the foreman for a short period of time, in which case, they are actually out—— [54]

Q. Well, I am not talking about relieving the foreman. I am talking about when they are performing what you described as their duties, and the one I am giving you for an example is weighing products as they are going in.

A. That is done within their plant office. In other words, that scale is inside the plant office so that the load of products, which is just immediately outside the office, is weighed by the clerk who is inside his office with the beam end in where he can make, rather, manipulate it.

Q. Does he put the material on the scale and take off the material, or compute the measurement?

A. He does nothing of that sort. He only manipulates the scale.

Q. And who does the putting on and off of the scales?      A. The production workers.

Q. And they are immediately adjacent to him as this is going on?      A. Correct.

Q. And with respect to the trucking of the ma-

(Testimony of Francis Stewart Sigler.)

terial, say, from time to time he will tell the production workers to which place they should truck the material?       A. That is right.

Q. It is the same situation there?

A. He instructs them. I gave the instance of the curing cellar, which I know so well from personal experience, where he [55] directs them to the area in the cellar, curing cellar, that the product is to be stored. That goes on his records.

Q. And as I understand it, with respect to the tierce, I believe that is the proper pronunciation?

A. Yes.

Q. The importance there is in the proper moving of that so that it can cure properly, is that right?

A. That is right. He visually instructs. He points out, he designates the barrels that are to be moved.

Q. But I mean, the point of the moving is the curing process in the course of the production?

A. That is the curing process, and he actually sees the product and designates what tierces are to be moved because all are not moved at the same time.

Q. And the moving from one place to the other is the most important thing in the production of that particular product?

A. That is right.

Q. You also mentioned that this clerk makes out vacation slips for the employees.

When he makes those out, does he hand those to the employees or do they go to the plant Superintendent's office or the business office?

(Testimony of Francis Stewart Sigler.)

A. Those vacation slips, as we call them, are handed by the clerk or the foreman to the timekeeper.

Q. Now the timekeeper is located where? [56]

A. In the Superintendent's building.

Q. And you say they are handed by the clerk or by the foreman. Which is the general practice, the foreman or the clerk?

A. I'd say it's 50-50 perhaps.

Q. In other words, they leave the plant and go over to the separate building and hand them in?

A. And hand them over.

Q. And then the computations are made then in the Superintendent's office? A. Correct.

Q. Now you mentioned that from time to time, if the foreman is absent from the department, that the clerk is asked to take over temporarily and take on his duties as plant clerk? A. That is true.

Q. Is it not also true that the production employees, from time to time, are asked to do the same thing?

A. Yes, we have production employees that are, that relieve supervisors and are paid an appropriate rate for such responsibility.

Q. Now with respect to the plant clerks, as distinct from the standards checkers, do they also check in by punching a time clock?

A. They punch a time clock.

Q. And where is the time clock located?

A. The majority of them punch the clock which is in closest [57] proximity to their office.

(Testimony of Francis Stewart Sigler.)

Q. Which is used by the other production employees?      A. That is correct.

Q. And with respect to lockers, do they use lockers still?

A. The clerks have lockers in the same room with our foreman.

Q. And where is this room that the lockers are in?

A. It is located in our, what we call our main dressing room building, which is a separate building. It is a dressing room building.

Q. And do production employees use that locker room?

A. They don't use that same room. They, there are other rooms in the same building that are the locker rooms for the production workers.

Q. Now with respect to the various records that are kept, you have stated that all cost of production data is confidential.

Now, what do you mean by the term, "confidential"?

A. Records are confidential that we only wish to have accessible to supervisory personnel.

Q. Now, do you mean that the time standards are confidential or the production standards are confidential? Just what do you mean? Are the premium rates? What is it that is confidential in these, the "data," as you use the term?

A. There are degrees, I'm sure, of confidential records.

(Testimony of Francis Stewart Sigler.)

Q. Well, let me ask you——

A. Some are highly confidential, others are not as confidential, [58] for example, cost data.

Q. Let us take the standards first, those that are standards and those that are variable. Is it not true that any employee can ask what the standards are on any job that he is on?

A. They have that right.

Q. And with respect to the rates of pay, is it not true that any employee can ask for that information?

A. Rates of pay for production workers are negotiated and are available for all employees.

Q. And with respect to the time studies, is it not true that the information of the time study is also available to the union representatives?

A. That is correct.

Q. Well, could you tell me what of this data is not available, either to the employees or to the Union?

A. You are talking of standards, standards alone?

Q. Any of this data that is compiled by either the plant clerk or by the standards checker?

A. We consider all cost data and production records to be confidential.

Q. All right. Now as far as production records, what are the factors in production records that are confidential?

A. We most assuredly are not anxious for competitors to know our costs.



(Testimony of Francis Stewart Sigler.)

Q. Well, I am not speaking now of your competitors. I am [59] speaking of the employees and the union representatives in this plant.

A. We still consider that information confidential.

Q. Now, is it not true, or rather, before I ask you this question, for the purpose of advising you on the basis of the question, I will hand you a document dated September 24, 1954, from a K. M. Richardson, General Superintendent, as a basis for the question I am about to ask you.

Now, I ask you, is it not true that the Union has the right, at any plant where they have bargaining rights, to select a member to be trained in time study and the incentive plan and practices, depending upon the number of employees, they may have two or more so selected, and that they are then trained by the company and made familiar with the procedure of the company, and that as far as the companies, themselves, are concerned, that they will be given an opportunity, as representatives of the union, and without loss of pay, to enter into a review of all the standards that may be in dispute under the collective bargaining agreement?

A. Standards, yes, standards only.

Q. Well, does that include time studies?

A. That includes time studies. That is standards and standards alone. You mentioned the cost data, and I exclude that.

Q. Now with respect to the production standards, as distinct from time standards, I will ask you if the

(Testimony of Francis Stewart Sigler.)

collective bargaining [60] agreement existing between the Petitioner and the Company does not also provide, in Article 7, Section No. 3C, that where any standards are to be changed or are to be applied to new operations, that not only shall the employee be advised, but that the Union shall also have certain rights with respect to the production records?

A. That is very clearly spelled out.

Q. Now as I understand it, there is one point that we are not clear on, and that is some data which you refer to as "cost data."

Could you, for the information of the Hearing Officer and myself, clarify what you mean by cost data which is confidential?

A. Indeed I can. Our plant clerks make out, usually on a weekly basis, cost reports which show the various component parts of our, of what the cost is to us to manufacture that product.

Q. Now, what are the component parts that you make reference to? What are they?

A. Those are supplies, supply costs, labor costs.

Q. Now first of all, take supply costs.

What do you mean by, "supply costs"?

A. The cost of the container in which the product is packaged.

Q. All right, and with respect to labor costs, what do you mean by "labor costs"? [61]

A. The actual cost as we have determined, from our standards department accounting procedures, the actual cost of labor to package that particular product.

(Testimony of Francis Stewart Sigler.)

Q. And what other factors come within——

A. There are repair costs.

Q. That is, repair costs generally in the department?

A. There are steam and power costs.

Q. But I say, the repair costs generally in that department?

A. That department, as applicable to that department.

Q. And you say steam costs?

A. Steam and power, yes.

Q. Now is that steam and power broken down as to the department or the department of steam and power?

A. That is, it is broken down for each department, that is correct.

Q. Who breaks that down for each department?

A. In some instances, it's by actual pounds of steam used in a certain operation, such as a retort.

Q. And in other instances?

A. I would have to consult with my chief engineer to see just how he does break that down and furnish it to the several departments. We have some departments use very little and others use much, actually, we can't obtain accurate costs unless we break it down to fit the particular operation requiring steam.

Q. Now in addition to those four, what are the other factors [62] that you place in this category?

A. There are various overhead costs that are

(Testimony of Francis Stewart Sigler.)

also applied to the package or the product in question, so that all added together, we know——

Q. If I may interrupt you, overhead costs, what do you mean by “overhead costs”?

A. That’s our commercial expense, our selling expense, our supervisory expense.

Q. All right, now with respect to the container cost, who obtains that information and to whom is it transmitted for the computation of this cost data?

A. The foreman or the clerk, either may obtain that information from the purchasing department.

Q. And the purchasing department is located in the business office?

A. In our general office, the business office.

Q. The business office, so that is obtained from the business office and placed upon a cost sheet, is that right?      A. Right.

Q. All right. The labor cost, from whom is that obtained and to whom is it transmitted?

A. It is obtained from the standards department in the Superintendent’s office.

Q. That is from the standards department, Superintendent’s office. [63]

The repair costs, from whom is that obtained and to whom is that transmitted?

A. That is obtained from our supervisor, our chief engineer, and master mechanic, or clerk.

Q. And where is that located?

A. In the Superintendent’s office.

Q. The Superintendent’s office.

(Testimony of Francis Stewart Sigler.)

And the steam and power, from whom is that obtained and to whom is that transmitted?

A. Also from information that is accumulated by our supervising engineer, our chief engineer, and his clerk.

Q. Again, the Superintendent's office?

And the overhead cost, from whom is that obtained?

A. That is obtained from our accounting department.

Q. And that is in the business office?

A. That is in the business office.

Q. All right, now when that is obtained, and you say it is usually obtained by the foreman or by the clerk?

A. The clerk who makes out these cost reports usually is the man who contacts the department from which this information must be obtained.

Q. Then he makes it on some sort of a sheet, is that correct?

A. It is made out on a regular form.

Q. The form supplied to him by the Company?

A. That is correct, and it may list one product or it may [64] list forty products, as is the case in our department.

Q. And then, that is transmitted to whom, by the clerk?

A. It goes to the, one copy goes to the Superintendent's office, one copy goes to our Chicago General Superintendent's office, a copy goes to commercial departments, who use it in their—



(Testimony of Francis Stewart Sigler.)

Q. But it is not retained in the plant office?

A. Copies are retained in the plant office, yes.

Q. And how long are they retained in the plant office?

A. I don't know, off hand. We have a schedule for retention time for all reports. It may vary from three months to indefinitely, depending upon the importance of the report.

Q. You say the importance you attach to it?

A. The importance insofar as it, whether or not it, the product in question, has been disposed of, has been sold. These records also include volume data, along with cost data.

Q. Now, you mentioned you kept certain records in a vault.

You do not keep these records in a vault then, is that it?

A. No, generally speaking, these cost records are not kept in a vault, no.

Q. Is there any Company policy why you keep certain types of records in a vault and other records not in a vault?

A. Time office records, payroll records, we keep indefinitely.

Q. No, but I say, why you keep them in a vault as distinct in not keeping them in a vault?

A. Destruction by fire would be one of our reasons, and also, [65] the fact that, what shall I say, we just want them under lock and key, because we don't want everyone having access to them.

(Testimony of Francis Stewart Sigler.)

Q. But, with respect to these confidential cost data, they are not kept under vault?

A. No, they are not kept under vault.

Mr. Scully: That is all I have.

The Hearing Officer: Have you any further questions, Mr. Bussman?

Mr. Bussman: Yes, sir, I do, just a few. I am wondering if you had anything? If you do not, I would like to ask for about three minutes, if I may, and I will be right back?

The Hearing Officer: All right. We will now take a short recess.

(Short recess.)

The Hearing Officer: All right, Mr. Bussman, you may proceed.

### Redirect Examination

Mr. Bussman: Before, reference was made to the head standards checker, and I believe Mr. Scully referred to him as the supervisor, which he is in fact.

I was just wondering if the Petitioner is making any claim for him?

Mr. Scully: No.

By Mr. Bussman:

Q. Mr. Sigler, to help clear up the confidential nature of the records that we discussed before, what did you mean when you used the term, "confidential"? [66]

A. I am reasonably certain that in the record, I stated that we certainly would not want our

(Testimony of Francis Stewart Sigler.)

competitors to know our costs or our production data. To me, that is the meaning of confidential. We certainly do not want outsiders to have access to this data. We don't want this information to be known to our competitors. It wouldn't be good business.

Q. Reference was made before, I believe, to the standards checker taking information from the plant clerks, records relating to the time that an individual employee may have worked, transcribing that information from the plant clerk's records to the standards sheet?

A. You mean for daily production, for computation of incentive pay daily?

Q. Yes, sir. What I wanted to ask you was, are those figures, as they are taken from the plant clerk's records, put directly on the standards sheet, or is there any computation that the standards checker must do?

A. He, for example, if a man works eight hours, a normal day, eight hours will show on the time sheet as made out by the clerk. The standards checker breaks that eight hours down into time on standard, delay time, if any, known standard time, guaranteed time, which is time paid for but not worked. That is the breakdown of time as the standards checker must take it, and put it on his standard sheets.

Q. And if we refer to the time, as it appears on the plant [67] clerk's record, as the gross time worked, I take it that these computations must be

(Testimony of Francis Stewart Sigler.)

done and then what we end up with is the net time which is used for figuring incentive earnings, is that correct?      A. That is correct.

Q. We were talking before about the variables which the standards checker must take into account in filling the applicable standard.

Is it conceivable that this list contained in the book would list every conceivable variable?

A. Not necessarily. An alert checker, and we certainly expect them to be alert, he is on the lookout for any variables that the standards does not cover.

Q. What does he do with such information?

A. Well, he reports it to the head of his department, and an investigation is made to see if the standard fits the particular job.

Mr. Bussman: That is all the questions I have, sir.

Mr. Scully: Well now, with respect, pardon me.

The Hearing Officer: Was that with respect to reporting?

Mr. Scully: No, no, I was just going to start a question.

The Hearing Officer: All right, proceed, please.

(Testimony of Francis Stewart Sigler.)

Recross-Examination

By Mr. Scully:

Q. With respect to recommendations that would be made by the standards clerks for changes in the pamphlet or [68] book, is it not true that the production workers also make suggestions as to changes in the plant operations and have a suggestion box for that? A. We welcome it.

Q. And the determination, as to whether either a recommendation of a production employee or standards checker shall be resolved, is something that is determined by management?

A. I don't think we should confuse, or at least, certainly, I, in my own mind, do not wish to confuse a suggestion made by any Swift employee, whether he be a salesman, production worker, or supervisor. We want suggestions from all of our people, no lines drawn, with the checker's duty to make the standard fit the job. If he fails to do that, on the one hand, we would have the employee who would not be paid the way we want him paid, which is for every bit of production that he turns out. We want him paid for his effort.

Q. But the standards are actually fixed by the head of the standards department, is not that correct?

A. The checker does not determine the standard itself. It is his duty, his function to know what that standard is intended to cover in the way of work performed.



(Testimony of Francis Stewart Sigler.)

Q. And the employee is entitled to ask and obtain which standard is applicable to his job, is not that true?      A. That is right.

Q. Well, the employee actually knows it? [69]

A. That is right.

Q. And who does he usually ask what standard is applicable to his job?

A. The employee should go to his foreman.

Q. And does the foreman, what does he find out, what standard is applicable?

A. I believe that the foreman, in a case of a request by an employee, would refer that employee to the head of the standards department, or would call the head of the standards department, down to that department. That has been done, I know that has been done.

Q. And the head of the standards department would then tell him what it was?

A. That is right, to be positive that there are no misunderstandings in regard to the applicability of the standards to fit a particular job. I do want to add that the checker is in charge. One of his main functions is responsibility to see that the standard that he uses fits the job picture, because, sincerely, we want our people to be paid for their efforts. That's the basis of our incentive plan, but we do not want them to be paid for something they do not do. But, on the other hand, we want them to be paid for every bit that they do do.

Q. And actually, the data that the standards

(Testimony of Francis Stewart Sigler.)

checker gets is the basis for determining the premium or incentive pay?

A. That is absolutely correct. He is the key man. [70]

Q. And he does not fix any guaranteed pay rate? He just determines the basis for computation of the incentive pay, is not that correct?

A. He puts on two sheets, the volume of production data. That is the base for computation of incentive pay.

Q. But the point I am trying to get at, if the head standards believes that on job #1, standard #1 is applicable, which will give a rate of pay of a dollar; that is the standard that must be applied by the standards checker, and he cannot apply a standard of \$1.25 because he thinks it more properly should be \$1.25?

A. No, sir, you have a mistaken impression. The standards checker selects the variable standards to be used each day to fit that particular job, and not one per cent of the figures that he puts on that sheet are actually audited and checked. They are his, what he determines is the proper application for that job.

Q. Well then, as I understand it, it is now your testimony that it is not the head standards checker, his assistant, and the time study man that determine the particular variables and standards that should be applied?

A. I am afraid that you are not quite clear.

(Testimony of Francis Stewart Sigler.)

Perhaps I should put it this way? Let me redefine the function of the time study man.

The head of the standards department and his assistant, in the establishing of standards, those are established and the [71] standards checker does not have a part in the establishing of those standards.

Q. I am also talking about variables. It is my understanding that the same people establish the variables.

A. They do establish the variables, that is correct.

Q. And they establish them on some plant policy basis, as to what variables should apply under a certain set of circumstances, is not that correct?

A. Yes, that is correct, they are.

Q. The question I am now asking is a certain set of circumstances being established by them to warrant that variable #1 being applied, is it not true that variable #1 must be applied by the standards checker?

A. That is correct, if it meets a particular situation, as defined by the description of that variable, that is correct.

Q. So the point we are back to, then, is the circumstance as to well, as to whether a standard or a variable shall be applied is determined by these three sources, and if those circumstances exist, then the standards checker must apply them?

A. But the standards checker's responsibility is to determine what variables do exist, so he can

(Testimony of Francis Stewart Sigler.)

apply the variable that fits a particular variable standard.

Q. Well, actually, what you are attempting to say, I believe, is that the standards checker must verify that the circumstance which his supervisors have found to warrant the application of [72] a variable, in fact, exist, and then the variable is applied automatically?

A. That is correct, that is correct.

Mr. Scully: That is all.

The Hearing Officer: Mr. Bussman?

Mr. Bussman: Nothing, sir.

The Hearing Officer: Well, I have one or two questions.

Q. (By Hearing Officer): To take your example, Mr. Sigler, of the plant clerk and the curing cellar, supposing he were sick and absent from work one day, who would do his work?

A. In the situation existing right now, we would take a foreman who formerly held that job, a foreman whom we can spare for a day or two. We are that flexible, and he would handle this man's job. We have no one else, at the present time, who is broken in. In other words, about a year to a year and a half ago, the man who was the clerk in the curing cellar is now a foreman of another department, or rather, an assistant foreman, and we have had occasions, within recent months, one was a vacation of the regular clerk. He was replaced by this foreman. It is a job that takes considerable experience to handle.



(Testimony of Francis Stewart Sigler.)

Q. Does the clerk in the cellar department have any supervisory function over the operating employees, other than the one you described, where he tells the operating employee in what part of the cellar to put certain products at a certain time? [73]

A. He directs, during the day, where meat shall go, what bin they shall go in, in a certain storage room. He directs them as to whether they shall go, other meats shall go directly to our smoke house or shall go to what we call, "dry pack."

I consider that those, when a man directs an employee where to take something, what to do with it, I certainly consider that that is a supervisory function.

Q. Well, does he have any other supervisory function in telling the production employees where to put the materials or the products?

A. This particular clerk has a specific job of directing workmen in the overhauling of tierces of beef animals. It happens to be a job that I personally assigned to him a long time ago, a year ago.

Q. Well, just what sort of directions does he give them?

A. He designates the barrels that are to be overhauled by rolling, and he designates the area in which they roll. They have to be rolled a specific distance. The directing of the movement of these meats has always been the function of this job. This is nothing new. It was true thirty-two years ago, when I handled the same job. It is true now.

Q. Well, does the plant clerk have anything to



(Testimony of Francis Stewart Sigler.)

do in relations to hiring or firing or reassigning men, or promoting men, or changing the personnel status of production workers that he directs in the fashion you have described? [74]

A. No, the clerk does not perform those functions.

Q. He does not rate the employees?

A. He does not hire, he doesn't rate the employee.

Q. Is he expected and required to make any effective recommendations about these operating employees?

A. Normally, our foreman and clerk are a very close team. It is a very close team, and if, in the judgment of the foreman, the clerk has qualifications that he wants in his possible successor, he will endeavor to do a good job of training him, follow in his footsteps, and that would include a discussion of the qualifications of the people in the gang. I am talking from personal experience. I traveled that route.

Q. Yes. Well, when you were formerly a foreman in the cellar department, did you make the decisions as to what recommendations should be made?

A. The foreman makes the decisions, that is his job, yes, sir.

Q. And the foreman consulted the clerk, primarily from the point of view of training the clerk?

A. He is not compelled to, but it is part of a training program, that is right.

Q. Rather than from the point of view of having

(Testimony of Francis Stewart Sigler.)

what the clerk said affect the decision made by the foreman, is that correct?

A. He might value his opinion, but the decision is the [75] foreman's. I know of specific cases of where clerks have assisted in the preparation of data for grievance procedure.

Q. Is that common?

A. It is not an every day affair. We don't have grievances every day.

Q. Do most of the clerks do that?

A. No.

Q. In other words, it is rare that a clerk assists in such activities?

A. I will answer that in this way. The majority of grievances are handled directly by the foreman, with the aggrieved person, without the clerk. It is a verbal discussion, and it is only where records are involved that the clerk would normally be brought into the picture.

Q. Well, the clerk would be asked to give the information?

A. That is correct. He would compile the information.

Q. He would not actually handle the grievance?

A. He would not actually handle the grievance. That is the foreman's job.

Q. Now, with respect to the standards checkers, are clerks sometimes promoted to standards checkers?

A. We have had it worked both ways. We have had clerks transferred to our standards department,

(Testimony of Francis Stewart Sigler.)

and standards checkers transferred to our plant clerks' jobs. We have had it worked both ways. [76]

Q. Do you sometimes employ standards checkers from outside the employment rolls of the Company, or is it the normal practice to find them from within?

A. We do it both ways. We would prefer to get them from the people that were in our employ.

Q. In what places do you look for a standards checker in your employment rolls, or among your employees?

A. We don't look any particular place. We are looking for qualifications of the man.

Q. Well, I mean any production workers?

A. Could be a production worker, yes, indeed.

Q. Who might show an aptitude?

A. Yes, indeed. We have had several that have made excellent checkers.

Q. Does that apply to clerks, too?

A. That applies to clerks also. It is the Company policy to promote from within.

Q. Does the plant checker, in any respect, supervise. Excuse me, does the standards checker, in any respect, have any supervisory function?

A. I could not define any of his functions as being supervisory.

Q. What is his relationship to grievances?

A. A standards checker would participate in grievance procedures to the extent of being called upon to recheck information [77] that he had put down on the standard sheet. It is not an uncommon

(Testimony of Francis Stewart Sigler.)

occurrence that workmen, operators, production people, would request the data to question the accuracy of production data that entered into their incentive pay. There, the standards checkers' function is to bring that sheet to the foreman and review it with him for possible error. As such, he participates in furnishing information.

Q. Does he, or does he not, participate in an actual conference on a grievance with the employee that claims a grievance?           A. He does not.

Q. What happens when a standards checker is ill for two or three days?

A. He would normally be replaced by the head checker.

The Hearing Officer: I have no further questions.

Mr. Scully?

Q. (By Mr. Scully): You mentioned that, from a promotional standpoint, you would sometimes use a production employee as a clerk or a standards Checker.

I ask you if it is not true that Standards Checkers and clerks have been transferred to production work?           A. Yes, that has also been true.

Q. Then is it not true that many classifications of production employees pay a higher pay than a standards checker or plant clerk?

A. Will you restate that, please, to be sure I hear you? [78]

Q. I say, is it not true that certain production employees receive more money than standards checkers and plant clerks?

(Testimony of Francis Stewart Sigler.)

A. Yes, that is true.

Q. And with respect to foremen, is it not true that you have promoted production employees to foremen without them ever being standards checkers or plant clerks?      A. That is true.

Q. So that there is no fixed line of promotion?

A. There is no fixed line of promotion, no, sir.

Mr. Scully: That is all.

Hearing Officer: Mr. Bussman?

Mr. Bussman: I have no questions.

Hearing Officer: No more questions?

Mr. Scully: No more.

Hearing Officer: Thank you very much, Mr. Sigler. You are excused.

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Received January 31, 1955. [79]

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In the United States Court of Appeals  
for the Ninth Circuit  
No. 15051

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

vs.

SWIFT & COMPANY,  
Respondent.

CERTIFICATE OF THE NATIONAL LABOR  
RELATIONS BOARD

The National Labor Relations Board, by its  
Executive Secretary, duly authorized by Section



102.84, Rules and Regulations of the National Labor Relations Board—Series 6, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of proceedings had before said Board, entitled, “In the Matter of Swift & Company, Employer, and Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, Petitioners,” Case No. 20-RC-2695; and “Swift & Company and Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL,” Case No. 20-CA-1110 before said Board, such transcript including the pleadings and testimony and evidence upon which the order of the Board in said proceedings were entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

Case No. 20-RC-2695

1. Stenographic transcript of testimony taken before Hearing Officer M. C. Dempster on January 19, 1955, together with all exhibits introduced in evidence.
2. Decision and Direction of election issued by the Regional Director on March 3, 1955.
3. Tally of Ballots issued by the Regional Director on March 18, 1955.
4. Certification of Representatives issued by the Regional Director on March 28, 1955.

## Case No. 20-CA-1110

5. Copy of charge filed by Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America on June 13, 1955, together with affidavit of service thereof.

6. Complaint and notice of hearing issued by the National Labor Relations Board on August 3, 1955, together with affidavit of service thereof.

7. Respondent's answer sworn to on August 10, 1955.

8. Stipulation dated August 18, 1955, among Respondent, General Counsel and Charging Party waiving hearing, the issuance of intermediate report and recommended order, filing of exceptions and oral argument before the Board, and providing for the issuance of a Decision and Order by the Board.

9. Copy of Order approving stipulation and transferring case to the Board issued by the National Labor Relations Board on August 25, 1955, together with affidavit of Service and United States Post Office return receipts thereof.

10. Copy of Decision and Order issued by the National Labor Relations Board on November 10, 1955, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto

set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 29th day of February, 1956.

/s/ OGDEN W. FIELDS,  
Acting Executive Secretary,

[Seal]

NATIONAL LABOR  
RELATIONS BOARD.

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[Endorsed]: No. 15051. United States Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. Swift & Company, Respondent. Transcript of Record. Petition for Enforcement of an Order of the National Labor Relations Board.

Filed March 1, 1956.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals  
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

vs.

SWIFT & COMPANY,

Respondent.

PETITION FOR ENFORCEMENT OF AN  
ORDER OF THE NATIONAL LABOR RE-  
LATIONS BOARD

To the Honorable, the Judges of the United States  
Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Secs. 151, et seq.), hereinafter called the Act, respectfully petitions this Court for the enforcement of its order against Respondent, Swift & Company, its officers, agents, successors and assigns. The proceedings resulting in said order are known upon the records of the Board as "In the Matter of Swift & Company, Employer, and Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, Petitioner, Case No. 20-RC-2695"; and "Swift & Company and Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, Case No. 20-CA-1110."

In support of this petition the Board respectfully shows:

(1) Respondent is an Illinois corporation engaged in business in the State of California, within this judicial circuit where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act, as amended.

(2) Upon due proceedings had before the Board in said matter, the Board on November 10, 1955, duly stated its findings of fact and conclusions of law, and issued an Order directed to the Respondent, its officers, agents, successors and assigns. On the same date, the Board's Decision and Order was served upon Respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Respondent's counsel.

(3) Pursuant to Section 10 (e) of the National Labor Relations Act, as amended, the Board is certifying and filing with this Court a transcript of the entire record of the proceeding before the Board upon which said Order was entered, which transcript includes the pleadings, testimony and evidence, findings of fact, conclusions of law, and the Order of the Board sought to be enforced.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon Respondent and that this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and the proceedings set forth in the transcript and upon the Order made thereupon a decree



enforcing in whole said Order of the Board, and requiring Respondent, its officers, agents, successors and assigns, to comply therewith.

/s/ MARCEL MALLET-PREVOST,  
Assistant General Counsel

NATIONAL LABOR  
RELATIONS BOARD.

Dated at Washington, D. C., this 29th day of February, 1956.

[Endorsed]: Filed March 1, 1956.

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[Title of Court of Appeals and Cause.]

STATEMENT OF POINT RELIED UPON  
BY THE BOARD

To the Honorable, the Judges of the United States  
Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, petitioner herein, pursuant to Rule 17 (6) of the rules of this Court, files this statement of the point upon which it intends to rely in the above-entitled proceeding and this designation of parts of the record necessary for consideration thereof:

I.

Statement of the Point

The Board did not act arbitrarily or capriciously in determining that respondent's plant clerks and

standards checkers constitute a unit appropriate for for the purposes of collective bargaining.

/s/ MARCEL MALLET-PREVOST,  
Assistant General Counsel,

NATIONAL LABOR  
RELATIONS BOARD.

Dated at Washington, D. C., this 29th day of February, 1956.

[Endorsed]: Filed March 1, 1956.

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[Title of Court of Appeals and Cause.]

ANSWER TO PETITION FOR ENFORCE-  
MENT OF AN ORDER OF THE NA-  
TIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States  
Court of Appeals, for the Ninth Circuit:

Respondent, for its answer to the Petition of the National Labor Relations Board for enforcement of its order made in a proceeding before said Board entitled "In the Matter of Swift & Company, Employer, and Local 508, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, Petitioner, Case No. 20-CA-1110," admits, denies and alleges:

1. Respondent admits the allegations of paragraph (1) of the Petition.

2. Respondent admits that findings of fact, conclusions of law and an order were made and served as alleged in paragraph (2) of the Petition but alleges that the findings of fact upon which such order was made are not supported by any substantial evidence and are contrary to the evidence in that the Board erroneously determined that the plant clerks and standards checkers who are the subject of said proceedings are not supervisory, managerial or confidential employees and alleges that the order was arbitrary, capricious and contrary to law in that the Board's order requires respondent to bargain collectively with a representative of said employees.

Wherefore, respondent prays this Honorable Court to deny enforcement of the Board's order, to set the same aside, and for such other relief as may seem proper to this Court.

/s/ MOSES LASKY,

/s/ MARION B. PLANT,

/s/ BAILEY LANG,

Attorneys for Respondent.

[Endorsed]: Filed March 26, 1956.